

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11812 OF 2017

VARSHA DNYANESHWAR ALHAT AND ANOTHER
VERSUS
DADARAO RUNJAJI ALHAT AND OTHERS

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Advocate for Petitioners : Shri Zia Ul Mustafa

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CORAM : RAVINDRA V. GHUGE, J.

Dated: October 03, 2017

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PER COURT :-

1. The petitioners are aggrieved by the order dated 25.4.2017, by which, the appellate Court has stayed the further execution of the judgment and decree dated 25.4.2016, delivered by the trial Court in RCS No.631 of 2016.

2. The petitioners are the original plaintiffs, who have succeeded before the trial Court and the shares have been decided by the trial Court by the judgment and decree. Since the appeal was preferred by the defendants, the appellate Court has stayed the execution of the judgment and decree till the disposal of the appeal as it pertains to the respective shares of the litigating sides. If the judgment is executed, the pending appeal might be rendered infructuous.

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3. Considering the above factors, I find that the ends of justice will be met by directing the appellate Court to decide the appeal within a particular period and if the measurement of the suit land is carried out, the same shall be subject to the result in the appeal.

4. As such, this petition is disposed off with a direction to the appellate Court to decide RCA No.45 of 2016 as expeditiously as possible and preferably on/or before 28.2.2018. In the event, any measurement of the suit land pursuant to the judgment of the trial Court has been carried out, the same shall be subject to the result of the appeal.

(RAVINDRA V. GHUGE, J.)

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