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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL APPLICATION NO. 427 OF 2017

IN

FIRST APPEAL NO. 700 OF 2015

WITH

FIRST APPEAL NO. 700 OF 2015

Bapu Ramchandra Borse & Ors.

...Applicants/Appellants

vs

Sahebrao Ratan Kadam & Ors.

...Respondents

.....

Mr Sagar Kasar for the Applicants/Appellants.

Mr Anilkumar K. Patil for Respondent No.1.

.....

CORAM : M. S. SONAK, J.

13 FEBRUARY, 2017

P.C. :

Heard Mr Kasar learned counsel for the applicants /
appellants in First Appeal No.700 of 2015.

2 In Civil Application, the applicant states that on account of change in valuation, First Appeal No.700 of 2015 has been transferred to the Additional District Judge, Malegaon, District Nashik. However, the Registrar in the said Court, claims that no papers have been received. Similarly, the Registrar of this Court insists that the papers have been transferred to the Court of learned Additional District Judge, Malegaon.

3 Finally the applicant states that the decree holder/
Respondent No.1 has applied for execution of decree on the basis that
there is no interim relief granted by any Court.

4 In view of the peculiar situation stated above, the
applicant submits that his application for interim relief is neither being
considered by this Court nor by the learned Additional District Judge
Malegaon. For this reason, the applicants seek some interim relief
until the issue of transferring file is sorted out.

5 In the Civil Application, it is stated that the decree holder
has even submitted a draft of sale-deed for the purpose of execution.

6 Taking into consideration the aforesaid peculiar
circumstances, the further execution of decree in Special Darkhast No.
24 of 2015 pending on the file of the learned Civil Judge, Senior
Division, Malegaon, is stayed for a period of two months from today.
The applicants/ appellants are also directed to maintain status-quo in
respect of the suit property.

7 The Registrar of this Court is directed to ensure that the
case papers in First Appeal No.700 of 2015 are made over to the court
of learned Additional District Judge, Malegaon, District : Nashik
within a period of four weeks from today. In case, the papers have
already been transferred, the Registrar to coordinate with the office of

the learned Additional District Judge, Malegaon by furnishing them necessary details with regard to the transfer, so that, this issue is sorted out once for all.

8 Similarly, the learned Additional District Judge, Malegaon is also requested to direct its Registrar to coordinate with the Registrar of this Court, so that the file / case papers are traced. If, within a period of four weeks this exercise is not completed, the learned Additional District Judge, Malegaon is directed to permit the applicants/ appellants to reconstruct the papers and thereafter proceed to take up the Civil Application for interim relief and to dispose of the same in accordance with law. The Civil Application is disposed of with the aforesaid order.

9 Both parties to act upon the duly authenticated copy of this order.

10 All contentions of both parties are kept open.

11 It is clarified that this interim order is granted only in view of the aforesaid peculiar circumstances and not really by adverting to the merits of the matter.

(M. S. SONAK, J.)