

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO. 143 OF 2009

NITIN PANDHARINATH SHELKE
VERSUS
SURESH MOHANLAL GORDIA AND OTHERS

Advocate for Applicant : Mr. S.S. Kulkarni.
Advocate for Respondent Nos. 1 & 2 :
Mr. S.S. Chaudhari.

CORAM : RAVINDRA V. GHUGE, J.
Dated : 04th June, 2018

PER COURT :

1. Shri Chaudhari, learned advocate for respondent Nos. 1 and 2, who are the respondents in the First Appeal as well, fairly submits that the position of law is that when a particular judgment of the Trial court has been stayed, the Executing Court would not proceed to deal with the execution proceedings. He submits that the judgment delivered by the Trial Court in Special Civil Suit No. 335/1989 has already been stayed by the order of this Court dated 23/04/2008 in Civil Application No. 10213/2004 in First Appeal No. 21/1998. Now the said First Appeal has been transferred to the District Court in view of the enhancement in the pecuniary jurisdiction and as such is now registered as a Regular Civil Appeal.

The stay to the judgment of the Trial Court, therefore, continues till the Regular Civil Appeal is decided.

2. I find that, in this Civil Revision Application, the grievance of the petitioner is that the Executing Court was proceeding in Regular Darkhast No. 53/2005 in the light of the impugned order dated 14/09/2009. Learned advocate for the respondent submits that the Executing Court would not proceed in the said Special Darkhast, considering the stay granted by this Court and in view of the First appeal being transferred to the District Court by a way of Regular Civil Appeal, which is still pending.

3. Considering the above, this Civil Revision Application is disposed of with the observation that the Executing Court would not proceed with the Special Darkhast No. 53/2005 till the Regular Civil Appeal pending before the Appellate Court (First Appeal No. 21/1998 which has been remitted to the Appellate Court) is decided.

(RAVINDRA V. GHUGE, J.)