

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.7 OF 2012
IN
SECOND APPEAL NO.11 OF 2012

Shri Vitthal Dagad Rasal & Ors. ... Applicants

Vs.

Shri Ganesh Vitthal Rasal & Ors. ... Respondents

Mr.R.S. Kate for the Applicants

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **APRIL 17, 2018**

P.C.:

1. Respondent Nos.4 to 10 are served. Affidavit of service on respondent No.3 is filed on 26.8.2015. However, no one is present.
2. The learned Counsel for the applicants submits that the judgement and order dated 28.7.2011 passed by the learned Extra Joint District Judge, Baramati in Regular Civil Appeal No.99 of 2007, is challenged. The applicants/appellants are the original defendants. The plaintiffs have filed the suit for partition. The Suit i.e., R.C.S. No.193 of 2002 filed for partition was decreed by the learned Civil Judge, Senior Division on 17.9.2007. The learned Counsel submits

that execution proceedings are filed by the respondents and he is likely to lose the possession. The learned Counsel submits that the question of possession is involved in the matter and, therefore, the judgment and decree passed by the trial Court as well as in appeal is to be stayed.

3. Though notices are served, none present for the respondents and, therefore, considered the submissions of the learned Counsel for the applicants.

4. In view of the submissions made by the learned Counsel for the applicants, the impugned judgment and decree dated 17.9.2007 passed by the trial Court and appellate Court dated 28.7.2011 are stayed till further orders.

5. Civil application is disposed of accordingly.

(MRIDULA BHATKAR, J.)