

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

C.A.S. NO. 254/2017 IN SECOND APPEAL NO. 143/2017

(PRAVIN PANDURANG DABRE & ANOTHER **VERSUS** VITTHAL MANAJI DABRE & OTHERS)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri R.L. Khapre, counsel for the appellants.
 Shri K.S. Narwade, counsel for the R-1.

CORAM : A.S. CHANDURKAR, J.

DATE : SEPTEMBER 03, 2018.

By this application, it is prayed that the decree for partition and separate possession as passed by the first appellate Court be stayed during pendency of the appeal.

In the application, it is stated that portion of field Gat Nos.48 and 293 are in possession of the appellant and by imposing appropriate conditions, the execution of the decree be stayed.

This submission is opposed by learned counsel for the non-applicant no.1 on the ground that considering the nature of the decree as passed, the non-applicant no.1 is entitled to a portion of the partitioned property. By filing affidavit dated 30.08.2018, it is stated by the non-applicant no.1 that he is willing to deposit Rs.1,50,000/- to Rs.1,75,000/- per year if possession of the said properties are given to the non-applicant no.1.

During pendency of the present proceedings, possession of Gat No.393 has been handed over to the non-applicant no.1 without prejudice to the rights of parties. Considering the fact that applicants are in possession of the aforesaid two properties, the execution of the decree is stayed by imposing the following conditions.

- I) The applicants shall deposit sum of Rs.1,75,000/- by 1st of May of each year, starting from 1st of May, 2019.
- II) Further solvent surety for an amount of Rs.25,000/- every year shall also be furnished by the aforesaid date.
- III) The parties shall not create any third party rights in the suit property.
- IV) It is clarified that this arrangement is interim in nature and without prejudice to the rights of the parties.

The civil application is disposed of in aforesaid terms.

JUDGE

APTE

**Rohit
Dattatraya
Apte**

Digitally signed by
Rohit Dattatraya Apte
Date: 2018.09.04
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