

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

950 CIVIL APPLICATION NO.7980 OF 2019
IN SA/24/2010

GYANU GANGARAM NARWADE L.RS. DROPADABAI GYANU
NARWADEAND ORS
VERSUS
GANGABAI TUKARAM NARWADE DIED THROUGH LRS
TUKARAM GANGARAM NARWADE AND OTHERS

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Advocate for Applicants : Mrs.Ranjana D.Reddy
Advocate for respondents : Mr.Anuj Fulfagar
h/f. Mr.P.R.Katneshwarkar.

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CORAM : V.L.ACHLIYA, J.
DATE : 11.10.2019

PER COURT:

1] This Application is filed seeking stay to the execution of judgment and decree passed by the trial Court for the reasons set out in detail in the application.

2] In brief, it is the contention of the applicants-appellants that the appeal was admitted vide order dated 24th March, 2011. The stay was also granted to the implementation of the judgment and decree passed by the Courts below. After admission of Appeal, the applicants-appellants lost the track of the matter. For want of taking steps to bring the legal heirs of deceased respondent on record, the appeal dismissed by

order dated 09.01.2019 passed by the Registrar [Judicial]. Subsequent thereto, the order of dismissal was set aside and Appeal has been restored to file. The legal heirs of the respondent were also brought on record. Meantime, the respondents have filed execution proceedings. They are pressing for execution of the decree. It is submitted that, in case the effect and operation of the impugned judgment and decree under challenge is not stayed, then the very purpose of filing Appeal would be frustrated.

3] On the other hand, learned counsel for the respondents opposed the application with contention that the applicants-appellants have no merit. They urged to list the application along with appeal and hear the Appeal finally.

4] On due consideration of the submissions advanced, I am of the view that the application deserves to be allowed in terms of prayer clause 'B'. It is not in dispute that Appeal has been admitted on satisfaction that Appeal raises substantial questions of law. The decree was stayed. Due to failure on the part of the applicants-appellants to take steps to bring the legal

heirs of deceased respondent on record, Appeal was dismissed which resulted into vacation of the stay. In order to preserve the status quo in respect of the suit property, it is necessary that the effect and operation of the judgment and decree sought to be executed needs to be stayed. I am, therefore, inclined to allow the Application. Accordingly, the application is allowed in terms of prayer clause 'B'.

5] Civil Application is disposed of in above terms.

6] Pending Appeal, execution of the impugned judgment and decree under challenge is stayed.

7] Hearing of the Appeal is expedited.

8] List the Appeal for final hearing on 25th November, 2019.

[V.L.ACHLIYA]
JUDGE

DDC