

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 411/2019

Jalilkha S/o Babakha & ors.

..VS..

Harunka S/o Babakha & ors.

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

Court's or Judge's orders

Shri P.P. Deshmukh, Advocate for the petitioner(s)

CORAM : Z.A.HAQ, J.
DATED : 22/01/2019

Heard.

The dispute is between the brothers and the sisters. In the civil suit filed by the present respondents, the trial Court has granted decree in their favour directing partition of the suit land. The precept is sent to the Collector under Section 54 of the Code of Civil Procedure.

The judgment and decree passed by the trial Court is challenged by the petitioners (defendants) in appeal which is pending before the District Court. In the appeal, the defendants had filed an application praying that the execution of the decree be stayed. This application is dismissed by the impugned order.

The learned District Judge has recorded that the record and proceedings of the trial Court are received and the appeal is ripe for hearing. The petitioners have not been able to point out that the execution proceedings have progressed substantially and there is threat to their possession.

Considering the facts of the case, in my view, the following order would sub-serve the ends of justice:-

ORDER

a) The learned District Judge shall decide the appeal till 15/04/2019.

b) If the execution progresses and there is imminent threat to possession of the petitioners, they may file application in the appeal before the District Court, praying for stay of the execution proceedings.

The writ petition is **disposed** accordingly. No costs.

JUDGE

Ansari