

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

**WRIT PETITION NO.1464 OF 2019**

(MOHD. SHAHID MOHD. JABIR & OTH...VS.. ANAS ANSARI JAMAL ANSARI.)

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

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Shri N.G.Jetha, Advocate for Petitioners.  
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**CORAM : Z.A.HAQ, J.**

**DATED : FEBRUARY 27, 2019.**

Heard.

The decree holder has challenged the order passed by the District Court by which the application filed by the respondent / Judgment Debtor under Order 41 Rule 5 of the Code of Civil Procedure is allowed. The grievance of the petitioner/ decree holder is that while granting stay to the execution of the decree, the learned District Judge has imposed the condition of depositing only Rs.1,000/- per month overlooking the facts placed on record by the decree holder that the decree holder is residing in rented premises and paying Rs.7,000/- per month. It is further submitted that Judgment Debtor had been paying Rs.1,000/- per month as rent and now after the decree for eviction is passed, the occupation of the judgment debtor is unauthorized and if his possession over the suit premises is protected, he should pay occupation charges at a higher rate.

*Prima-facie*, the submission made on behalf of the petitioner/ decree holder is appealable. However, in the facts of the case, in my view, the interests of justice would be

sub-served by directing the learned District Judge to dispose Regular Civil Appeal No. 579 of 2018 till 15<sup>th</sup> April 2019. The appeal should be disposed even if paper book is not filed by the Judgment Debtor.

The learned Advocate for the petitioners undertake to produce copy of this order on record of the learned District Judge within one week.

The writ petition is **disposed** in the above terms.  
No costs.

**JUDGE**

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