

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

WRIT PETITION NO.3145 OF 2019

Dattatraya S/o. Bapurao Jadhav and others.

Vs.

Smt. Meerabai Aatmaram Thakre and another.

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

Court's or Judge's orders

Shri Abhay Sambre, Advocate for petitioners.

Shri P. S. Chawhan, Advocate for respondent no.2.

CORAM : A. S. CHANDURKAR, J.

DATE : NOVEMBER 06, 2019.

Rule. Heard finally considering the short issue involved.

The petitioners are the original defendants in the suit for partition and separate possession filed by the respondent no.1 herein. The aforesaid suit was partly decreed by the trial Court on 27.02.2018 holding the plaintiff entitled for 8/48th share in the suit properties. That decree was sought to be executed. The defendants being aggrieved by said decree have filed an appeal. In that appeal it was prayed that the execution proceedings be stayed during pendency of the appeal. The appellate Court by the order dated 20.03.2019 has rejected the said application.

I have heard the learned counsel for the parties and I have perused the documents on record. On 03.05.2019 while issuing notice to the respondents, direction no.4 in the decree passed by the trial Court of sending the same to the District Collector for effecting partition had been stayed. Considering the fact that the appeal is pending before the Appellate Court, the interests of justice would be served by passing the following order:-

1. The proceedings in Regular Civil Appeal No.8 of 2018 are expedited. The appeal be decided by the end of March 2020. Till the said appeal is decided, direction no.4 in the judgment of the trial Court shall remain stayed without prejudice to the rights of the parties.
2. Needless to state that in the meanwhile none of the parties shall create third party rights in the suit property.
3. All questions on merits are kept open.
4. The Writ Petition is partly allowed in aforesaid terms.
No costs.

JUDGE

Sarkate