

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

918 WRIT PETITION NO. 1524 OF 2021

BAJIRAO S/O NANASAHEB BARHATE AND OTHERS
VERSUS
BALASAHEB S/O NANASAHEB BARHATE AND OTHERS

.....

Advocate for Petitioners : Mr. Lavte Amar V.
AGP for Respondent-State : Mr. S. B. Pulkundwar

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CORAM : V. K. JADHAV, J.
DATED : 27TH JANUARY, 2021

PER COURT :-

1. Learned counsel for the petitioners-original defendants submits that being aggrieved by the judgment and decree passed by the trial court in R.C.S. No. 219 of 2007 dated 06.08.2014, the petitioners have preferred R.C.A. No. 75 of 2014 and also submitted an application Exhibit 5 for staying the execution and effect of the judgment and decree under Appeal. By order dated 30.06.2018, the learned District Judge-1 Majalgaon had stayed the execution and operation of the judgment of the trial court till decision of the appeal. However, the said order is qualified by clause (3) wherein the learned District Judge has directed the present

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petitioners to cooperate in deciding the instant appeal expeditiously within three months from the date of order, otherwise stay will be vacated automatically. Learned counsel submits that the petitioners are not responsible for delay and all the while the petitioners have cooperated for early disposal of the appeal.

2. It appears that the petitioners have not filed any application before the first appellate court pointing out all these factual aspects and for continuation of the said interim order passed below Exhibit 5 dated 30.06.2018 and directly approached this Court by filing Writ Petition.

3. Learned counsel for the petitioners at this stage seeks leave to withdraw this Writ Petition with liberty to the petitioners to file an application before District Judge-1, Majalgaon in pending appeal bearing R.C.A. No. 75 of 2014 for continuation of the interim order passed below Exhibit 5 dated 30.06.2008.

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4. Leave granted. The Writ Petition is disposed off as withdrawn with liberty to the petitioner to file an application as mentioned above before the appellate court in the pending appeal.

(V. K. JADHAV, J.)