

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

907 WRIT PETITION NO.6266 OF 2021
DINKAR VYANKA MUNDE AND OTHERS
VERSUS
UTTAM RAJARAM MUNDE AND OTHERS

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Advocate for Petitioners : Mr. Ambad Shrinivas A.

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CORAM : V. K. JADHAV, J.
DATE : 29.04.2021

PER COURT :-

1. I have heard the learned counsel for the petitioners / original defendant Nos.1 to 3 for some time.
2. It appears that being aggrieved by the judgment and decree of partition and declaration passed by the Trial Court on 08.01.2020 in Regular Civil Suit No.79 of 2009, the petitioners herein have preferred Regular Civil Appeal No.14 of 2020. Pending appeal, the petitioners have also submitted stay petition Exh.5. By impugned order dated 21.01.2021, the Principal District Judge, Beed has allowed the application with certain directions. The learned counsel for the petitioners submits that the Principal District Judge, Beed has directed the

parties to the suit to maintain position which was prevailing on the date of filing the suit. The learned counsel submits that the petitioners are likely to lose their possession since the respondents have already filed the execution petition. I do not find any substance in the submissions made on behalf of the petitioners since the learned Principal District Judge, Beed in the impugned order dated 21.01.2021, in Clause No.3 of the operative part of the order further directed which reads as under :

"3. So far as determination of share of precept by the Collector, it will continue as per decree, however, stay will be there so far as delivery of actual and physical possession thereon."

3. It thus appears that the Lower Appellate Court has granted stay as to the delivery of actual and physical possession.

4. In view of the same, there is no substance in the Writ Petition. Writ Petition is hereby dismissed.

(V. K. JADHAV, J.)

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vmk/-