

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 12877 OF 2018

Subhash Phulchand Shah & Ors,

...Petitioners

vs.

The State of Maharashtra & Ors.

...Respondents

Ms.Sharmila V. Deshmukh for Petitioners.

Mr.A.P.Vanarase, AGP for Respondent No.1 – State.

Mr.Jitendra H. Oak for Respondent Nos.2 and 3.

CORAM : BHARATI DANGRE, J.

DATED : 13 OCTOBER 2021

PC. :

1. The limited issue, which arise for consideration in the present writ petition, is whether the stay could have been granted to the judgment and decree passed in Special Civil Suit No. 381/2008 without depositing the entire decretal amount, since the court has granted stay subject to the condition that the Appellant shall deposit either 25% of the amount of the principal sum due and payable under the decree being Rs.11,21,250/- or furnish bank guarantee of the said amount. The aforesaid order is passed on 20 February 2018 and though the same is contested by learned Counsel for the Petitioner, who would strenuously urge that such a relief could not be granted, in my considered opinion, since the appeal is pending for more than three years, interest of justice would be served if the appeal itself is disposed of by the Appellate court, i.e. District Judge, Raigad, Aibaug, within a period of six weeks from today. This direction, in my view, would serve the purpose, since it can be seen that the decree in favour of the Petitioner is standing since 31.8.2016 but down the line for five years, he

has not been able to bear the fruits of the said decree in view of the fact that three of the defendants had instituted the said appeal, in which the impugned order is passed.

2. In the wake of above, the District Judge, Raigad, Alibaug is directed to decide Civil Appeal No.46/2017 within six weeks from the date of passing of this order. It is made clear that the Appellants as well as the Respondents shall not prolong the proceedings on any ground and unless necessitated, and the learned Appellate court shall not grant indulgence when such an adjournment is sought.

3. In the aforesaid direction, the writ petition is disposed of.

(SMT. BHARATI DANGRE, J.)