

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

WRIT PETITION NO. 2245 OF 2021

Vatsalabai Vitthalrao Bahadure and others

vs.

Deokabai Vitthalrao Bahadure and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. Santosh D. Chande, Advocate for petitioners.

CORAM : MANISH PITALE J.

DATE : 28/06/2021

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. By this writ petition, the petitioners (original defendants) have approached this Court seeking to challenge an order dated 23/06/2021 passed by the Court of District and Sessions Judge, Mangrulpir, District Washim (appellate Court), whereby the said Court has directed the appeal filed by the petitioners along with the application for condonation of delay and an application for stay to be taken up on fixed date. According to the learned

counsel for the petitioner, the date fixed is 28/07/2021. But, in the meanwhile, there is likelihood of the decree itself being executed in terms of proceedings already undertaken by the Tahasildar at Mangrulpir.

3. This Court is of the opinion that when the petitioners have already challenged decree passed against them in substantial proceedings in the form of Regular Civil Appeal No.32 of 2019, wherein an application for stay has also been moved, it is not appropriate for this Court to entertain the present writ petition. It is for the petitioners to press their application for stay in the pending appeal.

4. In view of the above, this petition is disposed of with a direction to the appellate Court i.e. Court of District and Sessions Judge, Mangrulpir, District Washim to take up Regular Civil Appeal No.32 of 2019 filed by the petitioners along with application for stay and application for condonation of delay at the earliest, so that the petitioners will be able to argue their case for grant of interim stay to the execution proceeding, during the pendency of the said appeal.

5. If the petitioners move immediately, the appellate Court shall take up the said appeal along with application for stay and application for condonation of delay at the earliest to pass appropriate orders.

6. With these observations, the Writ Petition is disposed of. No order as to costs.

JUDGE