

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

**CIVIL APPLICATION NO. 9007 OF 2021
IN
SECOND APPEAL NO. 364 OF 2021**

Bhaktiram Vishram Rathod
Since deceased through his L.Rs.
Yashoda Bhaktiram Rathod and others

.. Applicants

Versus

Amrutlal Vishram Rathod
Since deceased through his L.Rs.
Dhangauri Amrutlal Rathod and others

.. Respondents

Mr. Rajendra Deshmukh, Senior Advocate i/by Mr. Amol Joshi and Mr.
Devang Deshmukh, Advocate for the Applicants.
Mr. R. C. Bora, Advocate for Respondent Nos. 1A to 1H and 3 to 5.

CORAM : BHARAT P. DESHPANDE, J.

DATED : 17th AUGUST, 2022.

PER COURT:-

1. This is an application for grant of stay to the impugned judgment as well as execution proceedings filed before the Trial Court.
2. Heard learned senior counsel Mr. Deshmukh for the applicants. The learned senior counsel submits that, today at 12.00 p.m. the Commissioner is going to carry out measurement in order to effect partition and hand over possession of the properties as per the orders passed by the Trial Court. He submits that, second appeal is pending for admission and if stay is not granted, entire purpose of the second appeal will be frustrated.

3. Perusal of the impugned judgment as well as grounds raised in the present second appeal, there are sufficient grounds for the purpose of consideration at the time of admission of the second appeal. Hence, the protection needs to be granted to the appellant/applicant therein. Hence, the following order.

ORDER

- (I) Civil application is partly allowed.
- (II) The measurement which is fixed for today shall continue, however, the Commissioner and the Trial Court are restrained from handing over possession of the properties to the respective shareholders till the next date of hearing.
- (III) The second appeal be listed for admission on 12.09.2022.
- (IV) Parties to act upon authenticated copy of the present order.

(BHARAT P DESHPANDE, J.)

PS.B.