

Anand

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

WRIT PETITION 4459 OF 2022

Sushma Nagesh Tanksale & anr. .Petitioners

Vs.

Anjira Krishna Salunkhe .Respondents
(Since deceased through Lrs.) & ors.

Mr. Rakesh Bhatkar a/w Mr. K. J. Phakade, Advocate, for
the Petitioners

Mr. M. N. Dhamal, Advocate, for the Respondents

CORAM : ROHIT B. DEO, J.

DATE : 20.07.2022

P. C.

. The Petitioners are the Appellants in R.C.A. 10 of 2016 which challenges the Judgment and Decree dated 30.10.2015 rendered by the learned Civil Judge, Junior Division, Koregaon in R.C.S. 199 of 1999.

2. The Petitioners are the Defendants in the suit.

3. The Petitioners preferred an Application - Exh. 31 in R.C.A. 10 of 2016 seeking stay to the Appeal, which is rejected by the order impugned dated 25.02.2022.

4. Broadly, the Petitioners contended that the claim of the Plaintiff on the basis of tenancy is rejected by the Maharashtra Revenue Tribunal, Pune and W. P. 4173 of 1999 which is preferred by the Plaintiff is pending in the High Court. The Petitioners contended that if the Appeal preferred by them is decided prior to the decision of the Writ Petition, they would be put to prejudice.

5. The learned Appellate Court has rejected the Application observing that the issue involved in the Appeal is not connected in any manner with the issue decided in the tenancy proceeding and which is subjudice in the High Court. The Appellate Court noted that in the Civil Suit, the Plaintiff did not press the tenancy issue and restricted the relief to injunction on the basis of possession and the suit as such, was partly decreed. The Defendant is restrained from disturbing the possession of the Plaintiff.

6. In my considered view, the observation of the learned Appellate Court does not suffer from any infirmity.

The limited issue involved in the Appeal is whether the Plaintiff is entitled to injunctive relief on the basis of possession. The issue of tenancy is irrelevant. It is difficult to comprehend why the Petitioners are seeking to stay the Appeal preferred by them challenging the order of the learned trial Judge.

7. I see no reason to interfere in writ jurisdiction.

8. The Petition is dismissed.

(ROHIT B. DEO, J.)