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

**WRIT PETITION 151 OF 2013
WITH
CIVIL APPLICATION 53 OF 2021
IN
WRIT PETITION 151 OF 2013**

Abdul Sattar Bade and Ors.	...	Petitioners/ Applicants
<i>Versus</i>		
Hleema Usman Bade and Ors.	...	Respondents

Mr. Ashutosh Gavnekar i/by C. G. Gavnekar for the Petitioners/
Applicants.

Mr. M. S. Kadu for the Respondents 1 and 2.

**CORAM: ROHIT B. DEO, J.
DATE : 1st JULY, 2022**

P.C. :-

1. The challenge in the petition is to order dated 5th December, 2012 rendered by the Civil Judge, Junior Division, Mangaon in Regular Darkhast 5 of 2005 whereby the application preferred by the obstructionist for stay of the execution proceedings on the premise that Regular Civil Suit 93 of 2012 is pending, is rejected.

2. The obstructionist's claim that since Regular Civil Suit 93 of 2012 challenges the validity of the decree in Regular Civil Suit 61 of 1993, the execution proceedings ought to be stayed.

3. Perusal of the application exhibit 105 which is rejected by the Executing Court and which rejection order is impugned, reveals that

the only ground raised in support of the prayer for stay of execution is the pendency of Regular Civil Suit 93 of 2012.

4. The learned counsel for the petitioners-obstructionists state that the petitioners shall withdraw Regular Civil Suit 93 of 2012 and raise appropriate objections, procedural and substantive before the Executing Court, as may be permissible under the provisions of Code.

5. The learned counsel for the decree holder have no objection if the petitioners are permitted to withdraw the Civil Suit and to approach the Executing Court *qua* procedural and substantive objections to the execution of the decree. The only anxiety expressed is that the execution ought not to be unnecessarily delayed.

6. This petition is disposed of with liberty to the petitioners-obstructionists to withdraw Regular Civil Suit 93 of 2012 and to prefer appropriate objections, as are permissible in law, before the Executing Court in Regular Darkhast 5 of 2005.

7. Regular Civil Suit 61 of 1993 shall be withdrawn and appropriate objections shall be preferred within the next 15 days.

8. The Executing Court is requested to expedite the execution proceedings and not to grant unnecessary adjournments.

9. Pending Civil Application, if any, shall stand disposed of.

[ROHIT B. DEO, J.]