

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

**WRIT PETITION NO.2703 OF 2023**

**SHAMABAI W/O DAYANAND HURDALE AND OTHERS  
VERSUS  
BHAUSAHEB PRABU BAWAGE**

...  
Mr. S.V. Natu, Advocate for Petitioners  
Mr. P.P. Mandlik, Advocate for Respondent  
...

**CORAM : NITIN B. SURYAWANSHI, J.**

**DATE : 25<sup>TH</sup> APRIL, 2023**

**PER COURT :**

1. Challenge in this petition is to the order dated 09/12/2022, passed by learned District Judge-2, Latur, below Exhibit-5 in Regular Civil Appeal No.4/2022, thereby granting stay in favour of the petitioners by imposing condition that petitioners shall deposit amount of interest at the rate of 6% per annum from the date of judgment and they shall continue to deposit monthly interest at the rate of 6% per annum on the principal amount of Rs.42 Lakhs, till disposal of the appeal.

2. This Court at the time of issuing notice, by order dated 09/03/2023, stayed the direction to pay interest until further orders.

3. Learned advocate appearing for respondent, on instructions, states that he has no objection to set aside the said condition impugned in present petition for the present. He further

states that next date in the appeal is kept on 07/06/2023, for arguments. Appeal was filed in the year 2020 along with the delay condonation application and it is registered as appeal of 2022 after condonation of delay. He, therefore, submits that appellate Court may be directed to decide the appeal within stipulated time by deciding the issue of interest at the time of deciding appeal.

4. Learned advocate for petitioners is agreeable to the suggestion given by learned advocate for respondent.

5. In that view of the matter, writ petition is allowed. The direction issued to the petitioner for payment of interest at the rate of 6% per annum from the date of judgment and further continuing to deposit interest till disposal of appeal is hereby quashed and set aside.

6. Appellate Court shall decide the appeal within a period of four months from the date of receipt of writ of this order. Issue of payment of interest shall be decided on merit by the appellate Court at the time of deciding appeal.

7. It is made clear that this Court has not expressed any opinion on the merits of the matter and all the respective contentions of the parties are kept open.

**(NITIN B. SURYAWANSHI, J.)**