

Pooja K.

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 11222 OF 2018
IN
SECOND APPEAL NO. 754 OF 2018

Sheryakhan Nasarulla Khan and Ors.	... Applicants
<i>Versus</i>	
Gopalrao Panditrao Shastri	... Respondent
...	
Mr. Siddiqui Sohel – Advocate for Applicants	
....	

CORAM : GAURI GODSE, J.
DATE : 10th February, 2023

PER COURT :

1. This application is filed by the appellants / original defendants praying for stay to the execution and operation of the decree passed by the first appellate court. Impugned decree is for handing over possession of the suit property as well as certain other reliefs.
2. The Second Appeal is admitted on 21st November, 2018. By the same order, the execution of the impugned judgment to the extent of delivery of possession is stayed. There is affidavit-in-reply filed to oppose the application. None appears for the respondent today. Affidavit-in-reply raises contentions on merits of the Second Appeal.

3. Learned counsel for applicants submit that, by the reasoned order Second Appeal is already admitted and interim relief was granted on 21st November, 2018. In the event the decree for handing over possession is executed, the Second Appeal will render infructuous and the applicants will suffer irreparable loss. He submits that, order dated 21st November, 2018 passed for grant of stay of delivery of possession be continued.
4. In view of the facts and circumstances of the case, it is necessary to extend the order of stay during the pendency of the Second Appeal. The order dated 21st November, 2018 granting stay to the execution of impugned judgment to the extent of delivery of possession to continue till the disposal of Second Appeal.
5. The Civil Application is disposed of.
6. Applicants will not create any third party interest in the suit property and shall not part with possession of the suit property.

**[GAURI GODSE]
JUDGE**