

Dusane

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

**CIVIL APPLICATION NO.570 OF 2017
IN
SECOND APPEAL NO.238 OF 2018**

Shri. Sanjay Atmaram Yelpale ...Applicants
& Ors.

V/s.

Shri. Vijay Atmaram Yelpale & Ors. ...Respondents

Mr. Sugandh B. Deshmukh a/w Mr. Vaibhav Thorave
and Irvin D'Souza for Applicants.

Mr. Laxman Kalel for Respondent No.1.

CORAM: MADHAV J. JAMDAR, J.
DATE: 28th June 2023

P.C.:

1. Heard Mr. Sugandh Deshmukh, learned Counsel appearing for the Applicants/Appellants and Mr. Laxman Kalel, learned Counsel appearing for Respondent No.1.

2. By separate order dated 28th June 2023, the Second Appeal has been admitted on the substantial questions of law framed therein.

3. In the Civil Application, prayer is made to stay the execution of the impugned judgments and decrees of both the

Courts. The prayer clause (a) reads as under:

"(a) Pending the hearing and final disposal of the aforesaid Second Appeal, the execution, operation and implementation of the judgment, order and decree dated 1-8-2007 passed by the learned Civil Judge, Junior Division, Sangola in Regular Civil Suit No. 260 of 1999 as well as judgment, order and decree dated 25-10-2016 passed by the learned Additional District Judge-2, Pandharpur in Regular Civil Appeal No.139 of 2007, may kindly be stayed".

4. A learned Single Judge by order dated 25th April 2019 directed that execution of the partition decree may be proceeded with, however, actual possession shall not be handed over till further orders. As the Second Appeal is admitted, the Civil Application is disposed of by continuing the said order dated 25th April 2019 till disposal of the Second Appeal.

5. Accordingly, although execution of the partition decree be proceeded with, however, actual possession shall not be disturbed till disposal of the Second Appeal.

6. Civil Application is disposed of in above terms with no order as to costs.

(MADHAV J. JAMDAR, J.)