

AGK

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

WRIT PETITION NO.6504 OF 2023

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Date: 2023.09.04
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Rekha Shankar Mahadik & Ors.

... Petitioners

V/s.

Shahu Narayan Mahadik & Ors.

... Respondents

Mr. Rajaram V. Bansode for the petitioners.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 4, 2023

P.C.:

1. The petitioners who are original plaintiffs challenging orders passed by the Appellate Court granting stay to the delivery of possession of the suit properties to the respondents. It appears that the decree challenged before the Appellate Court is the decree for possession of house properties and agricultural properties.

2. The appropriate order of interim relief in a statutory appeal against such decree is to protect possession of the defendants over the suit property, however, to grant liberty to the plaintiffs to proceed with partition proceedings. Therefore, it would be in the interest of justice to clarify the operative part of the Appellate Court order as under:

“The partition proceedings in furtherance of the decree passed in Regular Civil Suit No.387 of 2006 to go on; however,

actual possession of the suit properties shall not be delivered to the plaintiffs during pendency of the appeal.”

3. With this clarification, the writ petition stands disposed of.
No costs.

(AMIT BORKAR, J.)