

AGK

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

WRIT PETITION NO.8753 OF 2023

Somnath Radhakrushna Mahale (Shimpi) ... Petitioner

V/s.

Ujwala Sudhakar Pagar & Ors. ... Respondents

ATUL
GANESH
KULKARNI
Digitally signed by
ATUL GANESH
KULKARNI
Date: 2023.09.26
14:42:37 +0530

Mr. Pramod N. Joshi for the petitioner.

Mr. Girish Agarwal for respondent No.1.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 26, 2023

RC.:

1. The writ petition arises out of rejection of an application for stay in appeal challenging final decree arising out of partition decree in relation to house properties. The appellate Court rejected the application for stay holding that the petitioner has failed to make out prima facie case.

2. On overall consideration of the matter, I am of the opinion that no fault can be found with the appellate Court's order rejecting stay; however, delivery of possession in execution, if any, during pendency of the appeal shall be subject to final decision of final decree which may be passed by the superior Court.

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

(AMIT BORKAR, J.)