

PALLAVI
MAHENDRA
WARGAONKAR

WRIT PETITION NO.6064 OF 2023

Rameshkumar Shabhunath Pasi and Ors.	...Petitioners
Versus	
Inraji Mithailal Pasi and Ors.	...Respondents

- Ms. Pratibha Shelke i/b. Ramdas Hake-Patil, for the Petitioners.
- Mr. Rupesh Padwal, for the Respondents.

DATED : 3rd MAY 2023

P.C. :

1. Heard Ms. Pratibha Shelke, learned counsel appearing for the Petitioners and Mr. Rupesh Padwal, learned counsel appearing for the Respondent Nos.2 to 5.

2. The impugned order in the present Petition is dated 26th April 2023 passed by the Appellate Bench below Exh.22 in 2 A Appeal No.11 of 2023. By the said order, the learned Appellate Court rejected the application seeking interim stay to the execution. Learned Appellate Court has observed that as per bailiff's report dated 13th April 2023, the decree has been partly executed. Apart from that, the learned Appellate Court has also held that the said bailiff's report falsifies the contention of the Petitioners that they are

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in possession of the suit property.

3. The factual position on record shows that on 13th April 2023, the decree has been executed partly. Apart from the said aspect, it also shows that the Petitioners have created third party interest with respect to the part of the suit property.

4. However, it is to be noted that on 15th April 2023, the Petitioners applied to the Appellate Court seeking stay to the execution by representing that they are in possession of the suit property. On the said representation of the Petitioners, the Appellate Court, by order dated 15th April 2023 stayed the execution of the decree till 26th April 2023. However, it is to be noted that it was not pointed out by the Petitioners to the Appellate Court that the decree has partly been executed on 13th April 2023. Therefore, the Appellate Court has rightly observed that false representation was made while obtaining order dated 15th April 2023.

5. Therefore, there is no substance in the Writ Petition and the same is rejected.

[MADHAV J. JAMDAR, J.]