

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

**INTERIM APPLICATION NO. 14283 OF 2023
IN
SECOND APPEAL NO. 967 OF 2006**

Mrs. Gojabai Shripati Kandekar Applicant
v/s.
Mr. Shankar Namdeo Sawant (since
deceased through legal heirs) :
Kalabai Shankar Sawant and ors. Respondents

Mr. Sudhir V. Sadavarte for the Applicant.
Mr. Manish Khadakbali i/b. Mr. Anilkumar Patil for R.Nos.1 to 4.
Mr. P.D. Dalvi for Respondent Nos.5 and 6.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 12th OCTOBER, 2023.

P. C. :-

. By this Application, the Applicant seeks stay of execution in Regular Darkhast No.57/1992 in Regular Civil Suit No.263/1980. By judgment dated 31/07/1998, the trial court has decreed the Regular Civil Suit No.263/1980 for partition and possession. The Applicant herein who is the sister of the plaintiff in the said suit, filed a separate Regular Civil Suit No.37/1994 claiming that she too has share in the property which was the subject matter of Regular Civil Suit No.263/1980. The said suit was decreed and the court has held that

she had 19/96th share in the property. The said judgment was challenged before the Appellate Court. The Appeal came to be allowed and the decree passed by the trial court in favour of the Applicant herein stood set-aside. Hence, this Appeal.

2. Learned counsel for the Appellant states that the Applicants in Regular Civil Suit No.263/1980 have filed Darkhast No.57/1992 to execute the decree. The Applicant has already filed an application in the said darkhast and the same is pending. It is stated that the executing court is proceeding with the execution of the decree in Regular Civil Suit No.263/1980.

3. Considering that the Applicant herein is also claiming right to the property which was the subject matter of Regular Civil Suit No.263/1980 and that the trial court had decreed the suit in her favour, in my considered view, execution in Darkhast No.57/1992 and in Final Decree/1200010/2015 in the Court of C.J.J.D.J.M.F.C., Shirala is stayed pending disposal of the present appeal.

4. Considering the fact that the Appellant and the Respondents are siblings, both parties state that they will explore the possibility of an

amicable settlement.

5. Interim Application stands disposed of.

6. Appeal be listed on **06/11/2023** for reporting settlement and/or final hearing.

(SMT. ANUJA PRABHUDESSAI, J.)

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