

AGK

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

WRIT PETITION NO.15434 OF 2023

Sunandabai Patilbuwa Rakshe	... Petitioner
V/s.	
Maruti Yashwant Rakshe	... Respondent

SHRI
SUNANDABAI
PATILBUWA
RAKSHE
VS
SHRI
MARUTI
YASHWANT
RAKESHE

Mr. H.D. Chavan i/by Mr. M.D. Ramteke for the petitioner.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 12, 2023

P.C.:

1. The judgment debtor is challenging order passed by the Executing Court rejecting application under Order 21 Rule 26 of the Code of Civil Procedure, 1908 seeking stay of the execution of the decree.
2. *It appears that the Trial Court has passed decree for perpetual injunction on 16 December 2003.* Against the said decree, the petitioner has already filed substantive appeal. The appeal is pending. Remedy of the judgment debtor is to apply for stay of decree in the such appeal. Therefore, the Executing Court has rightly rejected application under Order 21 Rule 26 of the Code of Civil Procedure, 1908.
3. The writ petition accordingly stands dismissed. No costs.

(AMIT BORKAR, J.)

Note: This order is modified as per order dated 3 January 2024. The corrections in paragraph 2 are shown italicize.