

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 1990/2022

RAJESH S/O HIRJI SHAH (DEAD) THR. LRS. SMT. VIMAL WD/O RAJESH SHAH
THR. P.O.A., DIGANT R. SHAH AND OTHERS.

VS

M/S. NARAYANI FIT AND ACTIVE, THR. PARTNERS, NAGPUR AND OTHERS

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri R.M. Sharma, advocate for the petitioners.

Shri S.R. Charpe, advocate for the respondent Nos.1 to 3.

CORAM : ANIL S. KILOR, J.

DATED : 30/01/2023

1. Heard.

2. The order below Exhibit 5 dated 28/03/2022, allowing the application and thereby staying the execution of the impugned judgment and decree dated 26/04/2021, till the decision of the appeal subject to the condition that, the respondent/defendant shall deposit Rs. 9,22,384/- (Rupees Nine Lakh Twenty Two thousand Three Hundred Eighty Four only) and pay Rs. 2 Lakhs per month as occupation charges/license fee of the suit from the date of the judgment and decree within one month and shall continue to pay the same, till final disposal of the appeal on merit, is under challenge.

3. Learned advocate for the petitioner points out that, though the first condition of deposit of Rs. 9,22,384/- is

complied with, however, the second condition, subject to which the stay was granted, is not complied with and therefore, the order granting stay needs to be interfered with.

4. The learned advocate for the respondent is not disputing the fact that condition No.2 is not complied with.

5. The order granting stay categorically states that the stay is subject to conditions recorded in the order. Thus, non-compliance of clause 2(ii) of the order takes out the operation of the stay granted.

6. In the circumstances, no cause of action survives in the writ petition. Accordingly, the writ petition is **disposed of**.

JUDGE