



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

Writ Petition No.4279 of 2021
CHANDU S/O AMBADAS GAHUKAR AND ANOTHER
VS
PANKAJ ROSHAN DHAWAN 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 Madhur Deo, Advocate for the Petitioner/s
Shri Yashodhan Ganu, Advocate for the respondent Nos.1 to 3

CORAM : ANIL S. KILOR, J.
DATED : 14.09.2023

1. Heard.
2. The learned lower Appellate Court while granting stay under Order 41 Rule 5 of the Code of Civil Procedure (CPC) imposed a condition to deposit 50% of the decretal amount i.e. 16,50,000/- and to furnish bank guarantee for remaining 50% of decretal amount vide order dated 28.09.2021 passed in Regular Civil Appeal No.448/2019.
3. In the present matter a limited prayer is made that, in compliance with sub-rule 3(c) of Rule 5 of Order 41 of the CPC, the petitioners are ready to furnish documents of their immovable property as security for satisfaction of decree. The learned counsel for the petitioners accordingly asks for such modification.
4. The learned counsel for the respondents opposes such request.

5. Considering the provision of Rule 5(3)(c) of Order 41 of the CPC, I am of the opinion that even if security which the petitioners are ready to furnish is accepted, it would be a compliance of the provisions of law.

6. Accordingly, the order below Exh.5 dated 28.09.2021 is hereby modified and therefore, the petitioners are permitted to furnish solvent surety to the satisfaction of the learned lower Appellate Court towards the decretal amount on or before 04.10.2023 along with an undertaking that, if they fail in the appeal, they will deposit the decretal amount within eight weeks, which shall be subject to the result of further appeal or proceedings, if any.

7. The writ petition is **allowed** in the above terms. No order as to costs.

[ANIL S. KILOR, J.]