



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

954 WRIT PETITION NO. 6432 OF 2023

**VASANT JAYSING GAIKWAD AND OTHERS
VERSUS
RUKHMINIBAI TATYARAO GADEKAR AND OTHERS**

Mr. A. P. Bhandari, Advocate for the petitioners
Mr. K. N. Shaikh, Advocate for respondent no.1A
Mr. K. J. Suryawanshi h/f Mr. K. F. Shingare, Advocate for respondent
no.2
Mr. S. R. Erande, Advocate for respondent no.3.

CORAM : R. M. JOSHI, J.

DATE : 22nd NOVEMBER, 2024

PER COURT :-

1. This petition takes exception to order dated 03/05/2023 passed below Exhibit 5 in Civil M.A. No. 129/2022 whereby the request made by the petitioners/original appellants for stay of the execution proceeding came to be rejected.

2. Learned counsel for the petitioners submits that the First appellate Court did not decide the said application on merit but it is dismissed only for the reason that while filing application Exhibit 5 there was no issuance of execution warrant. Thus, it is said that there was no cause of action for stay of the same.

3. Learned counsel for the petitioners seeks leave to prefer an

fresh application.

4. Learned counsel for the petitioners undertakes to file that application on or before within a period three weeks from today. If such application is filed, the First Appellate Court is directed to decide the same afresh within a period of a month thereafter. It would be in the interest of the party that the entire proceedings of Civil M.A. No. 129/2022 is expedited. Thus, the entire proceeding be disposed of within a period of three months from today.

5. In view of the above, impugned order dated 03/05/2023 is set aside. Petition is allowed in above terms.

6. Interim relief granted by this Court to continue till decision of fresh application.

(R. M. JOSHI, J.)

ssp