

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8184 OF 2024

Fayyaj Abdul Rajjak Shaikh

.. Petitioner

Versus

The State of Maharashtra & Ors.

.. Respondents

-
- Mr. Abhang Suryawanshi i/by Mr. N.G. Rokade for Petitioner
-

CORAM : MILIND N. JADHAV, J.

DATE : JULY 19, 2024

P. C.:

1. Not on board. Mentioned. Taken on board.
2. Perused the praecipe dated 07.05.2024.
3. Heard Mr. Suryawanshi, learned Advocate for Petitioner.
4. Present Petition is filed seeking direction from this Court to the Executing Court to partly implement and execute the decree passed by the Trial Court.
5. It is seen that the original Suit has been decreed in favour of the Plaintiff (Petitioner herein). After the Suit was decreed, Plaintiff has filed Execution proceedings before the Executing Court. However, Defendants being aggrieved with the decree have filed Regular Civil Appeal (RCA) before the learned District Court. Learned District Court by order dated 01.04.2022 which is appended at page Nos. 27-28 of the Petition has stayed the judgment & decree passed in SCS No.

55/2013 till disposal of the Appeal to the extent of delivery of possession and upon condition that Appellants shall give undertaking that they will not alienate the suit property or create third party interest in the property till disposal of the Appeal. *Prima facie* reading of this order shows that decree of the Trial Court has been stayed by putting an embargo on the Defendants who are the Appellants before the District Court. In such background, Application made by Plaintiff / decree-holder to execute the decree partly cannot be allowed. At the highest, I can direct the learned District Court who is hearing and seized of RCA No. 17/2020 to hear the RCA in a time bound manner and determine the same strictly in accordance with law.

6. Mr. Suryawanshi requests the Court to adjourn the matter so as to enable his Senior Mr. Rokade to come and address the Court. At his request, stand over to **26th July, 2024**. To be placed under the caption **"First on Board"**.

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[MILIND N. JADHAV, J.]

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by RAVINDRA
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