

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

Writ Petition No. 17387 of 2024

Mr. Ayub Dastgir Shekh ... Petitioner
V/s.
Mr. Arvind Bapu Pise ... Respondent

Mr. Abhijeet P. Rane

Advocate for the Petitioner

CORAM : S.M. MODAK, J

DATE : 04 December 2024.

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P.C. :

Heard learned Advocate for the petitioner/plaintiff/
respondent before the first appellate Court.

2. There was a decree passed by the trial Court in Special Civil Suit No.1/2014. The suit of the present petitioner was decreed. It was for cancellation of the sale deed dated 5 July 2011 and its declaration.

3. Against the said decree the present respondents filed a first appeal. The appellate Court as per the order dated 23 August 2024 has stayed the execution of decree. This order is challenged by the petitioner-decree holder. The contention is by taking dis-advantage of the stay the respondent has carried out the construction and he has put other persons in possession of the premises and he is earning money.

4. The learned Advocate for the petitioner is insisting upon passing of some ad-interim order. All the necessary papers are not annexed. Furthermore, the impugned order is passed after hearing both the sides.

5. At this juncture, the Court deems it proper to issue notice before admission, returnable on **22 January 2025**. Private notice is allowed. Service affidavit be filed.

6. The petitioner is at liberty to file on record all necessary documents.

7. It is made clear that if the respondent has carried out any construction and is earning any income, ultimately, it will be subject to outcome of this petition.

(S.M. MODAK, J.)