



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

CIVIL APPLICATION (CAS) NO.675 OF 2022 IN
SECOND APPEAL NO.230 OF 2022

Majidkhan Hanifkhan Pathan (Dead) through LR. .Vs. Rajiyabai Ibrahimkhan
(Dead) through Lrs 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 H.D. Futane, Advocate for appellants.

Shri P.R. Agrawal, Advocate for respondent Nos.2 and 3.

Ms. Anjali Agrawal, Advocate for respondent No.3.

CORAM : SANJAY A. DESHMUKH, J.
DATED : 02/09/2024

1. The learned advocate for the appellants pointed out that in spite of the status quo order of this Court dated 20.08.2022, the Revenue Authority is proceeding to execute the judgment and decree of the trial Court by effecting partition. The letter issued by the Revenue Authority dated 16.08.2024 is produced along with pursis which is taken on record and marked as 'X1'. The learned advocate for the appellant therefore prayed to stay the execution of said judgment and decree.

2. The learned advocate for the respondents submitted that, already there in status quo order passed by this Court.

3. In view of the submission of both sides and letter submitted along with pursis, it would be proper to

direct the Revenue Authority and to clarify as to what extent there would be stay to the execution of judgment and decree of the trial Court.

4. The execution of judgment and decree of the trial Court is partly stayed as under :

- a) The Revenue Authority may effect the measurement of the suit properties, suggest the partition. However, it shall not handover the possession of the suit properties till the decision of this appeal.
- b) The appellants to send the copy of this order to the Revenue Authority and submit it in execution proceeding No.12 of 2019. The Civil Judge Junior Division, Warur, Dist. Amravati, the executing Court shall take note of the procedural law that, once the decree for execution is send to the Collector or its Subordinate as per Section 54 of the Code of Civil Procedure, 1908 the Court become functus officio and Executing Court shall dispose of such execution proceeding regarding agricultural land.

5. The appellants to communicate copy of this order to the Executing Court as well as Revenue Court.

6. Concerned to rely / act upon the authenticated copy of this order.

7. A Humdast is allowed.

8. The civil Application is **disposed** of accordingly.

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9. Place this matter for final hearing on **19.09.2024** at 02.30 p.m.

(SANJAY A. DESHMUKH, J.)