



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

13 WRIT PETITION NO. 6985 OF 2022

Mohan Khiraji Dangade & othersPetitioners

VERSUS

Murlidhar Yashwant Dangade & othersRespondents

Mr. N. C. Garud, Advocate for the Petitioners.

Mr. R. K. Temkar, Advocate for Respondent Nos. 1 and 2.

CORAM : R. M. JOSHI, J.

DATE : 21st APRIL, 2025.

PER COURT :

1. This petition takes exception to the order passed below exhibit 7 in Regular Civil Appeal No. 27/2022 whereby the District Judge – 7, Ahmednagar stayed operation of decree passed by the Trial Court without hearing successful Plaintiffs.

2. Learned counsel for Petitioners takes exception to this order only on the ground that before granting stay, the successful Plaintiffs ought to have been heard by the Appellate Court. He, therefore, seeks direction to the Appellate Court to decide exhibit 7 after giving an opportunity of hearing to the Petitioners/Plaintiffs.

3. Learned counsel for Respondents supports the impugned order. According to him, the Appellate Court has considered the fact that an arguable case is made out on the fact as well as law before the Appellate court and hence there is no reason to cause interference in the said order.

4. Petitioner is successful Plaintiff in Regular Civil Suit No. 343/2017. Respondents/original Defendants filed first appeal against the said judgment and decree. It was necessary for the Appellate Court to hear Plaintiffs before passing any order of stay to the operation of the decree passed by the Trial Court. Only on this count, the petition is allowed. Impugned order is set aside. The Appellate Court is directed to decide exhibit 7 after giving an opportunity of hearing to the Petitioners/Plaintiffs.

5. Appellate Court to decide said application on or before 30.06.2025. Till then, the order passed by this Court dated 07.07.2022 to continue. Needless to say that the Appellate Court to decide the application on its own merit.

(R. M. JOSHI)
Judge