

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIRCUIT BENCH AT KOLHAPUR**

**WRIT PETITION NO.17253 OF 2024**

Shivgonda Ramchandra Jadhav,  
Age-59 Year, Occu.-Agriculture,  
R/o. Pattankodoli, Tal-Hatkanabgkem  
Dist. Kolhapur

..Petitioner

Versus

1. Aslam Babalal Mahat,  
Age 61 Years, Occu. Agriculture,  
R/o. Pattankodoli, Tal-Hatakanangle,  
Dist. Kolhapur.
2. Vandana Shivgonda Jadhav,  
Age 47 Years, Occu. Household,  
R/o. Ditto.
3. Amol Shivgonda Jadhav,  
Age 32 years, Occu. Agriculture,  
R/i. Ditto.
4. Aparna Prashant Dongare,  
Age 35 years, Occu. Household,  
R/o. Hupari, Tal-Hatkanangle,  
Dist-Kolhapur.

..Respondents.

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Mr. N. J. Patil (Through V.C), Advocate for Petitioner.

Ms. Deepali Bagla (Through VC) i/b. Bagla & Associates, Advocate for Respondents.

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**CORAM : S. G. CHAPALGAONKAR, J.  
DATED : 6<sup>th</sup> NOVEMBER 2025**

**JUDGMENT:-**

1. Petitioner/original defendant takes exception to order dated 10<sup>th</sup> September 2024 passed by District Judge, Ichalkaranji, below Exhibit-5 in Regular Civil Appeal No.13 of 2022, whereby the

application filed by petitioner for grant of stay to the judgment and decree passed by Trial Court has been rejected by learned District Judge.

2. Respondent No.1 instituted Regular Civil Suit No. 297 of 2013 before the Civil Judge, Senior Division, Ichalkaranji, seeking a decree for specific performance of contract, alleging that on 14<sup>th</sup> July 2010, the petitioner and respondent No.2 executed an agreement to sell land admeasuring 41 R from Gat No. 542 B/2. The Trial Court decreed the suit, directing the petitioner to execute a sale deed in respect of the suit property in favour of the plaintiff within 90 days from the date of receipt of the balance consideration amount, and to deliver possession of the suit property to respondent No.1/plaintiff.

3. Aggrieved petitioner filed Regular Civil Appeal No. 13 of 2022 before District Judge, Ichalkaranji, challenging judgment and decree of Trial Court. An application below Exhibit-5 was submitted seeking a stay of judgment and decree under appeal. However, learned District Judge declined to entertain application vide order dated 10<sup>th</sup> September 2024, which is impugned in this petition.

4. Mr. N. J. Patil, learned Advocate appearing for petitioner, submits that the decree for specific performance has been challenged before District Judge in a substantive appeal. The grounds raised in appeal would show Appellate Court is required to reconsider correctness of decree under appeal and to reappraise the findings of fact and law. According to Mr. Patil, there are sufficient grounds to allow application seeking stay of impugned judgment and decree. However, learned District Judge has erroneously rejected application by referring to erroneous findings recorded by the Trial Court on Issue No.4.

5. Per contra, Ms. Bagla, learned Advocate appearing for respondents, supported the impugned order and pointed out that petitioner is deliberately prolonging the hearing of the appeal before the District Judge, although proceedings in appeal is not stayed by this Court.

6. Considering the rival submissions, it can be observed that a decree for specific performance of contract has been passed against petitioner on 20<sup>th</sup> January 2022. The said decree has been assailed by him in Regular Civil Appeal No. 13 of 2022, pending before learned District Judge. However, the application seeking stay of decree has been rejected by learned District Judge. It appears that on 16<sup>th</sup> January 2025, this Court granted interim relief by directing Executing Court not to proceed with the

execution of decree in Regular Darkhast No. 42 of 2022. Interim relief granted by this Court has been continued from time to time and is still in force.

7. The substantive appeal filed by petitioner challenging the decree passed by Trial Court has been pending since 2022. In this background, it would be in the interest of both parties if appeal itself is heard and decided finally by learned District Judge.

8. In view of the above, irrespective of the merits of the contentions raised by parties, the purpose would be served if hearing of Regular Civil Appeal No. 13 of 2022 is expedited, and interim relief granted by this Court is continued. Hence, following order.

### **ORDER**

(i) Writ Petition is partly allowed:

(ii) Impugned order dated 10<sup>th</sup> September 2024 passed by the District Judge in Regular Civil Appeal No. 13 of 2022 is hereby quashed and set aside.

(iii) Learned District Judge is requested to take up Regular Civil Appeal No. 13 of 2022 for final hearing and decide the same expeditiously, preferably within a period of six months from today.

(iv) Pending hearing and final disposal of appeal, interim relief granted by this Court under order dated 16<sup>th</sup> January 2025 shall remain in force. Parties are directed to cooperate to ensure the early disposal of the appeal.

**(S. G. CHAPALGAONKAR)**  
**JUDGE**