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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 11139 OF 2025**

Kotak Mahindra Bank Limited through its ... Petitioner  
Authorized Officer Mr. Sarbasuchi Das

vs.

Ajay Shantilal Raka and Ors

... Respondents

Mr. Ansh Karnawat a/w. Mr. Ajay Deshmane i/b. V. Deshpande and  
Co., for Petitioner

Ms. Sarita Sonawane h/f. Ms. Aarti P. Bhide for Respondent Nos. 1  
to 3.

**CORAM : GAURI GODSE, J.**

**DATED : 20<sup>th</sup> AUGUST 2025**

**ORDER:**

1. This writ petition is filed to challenge the order granting a conditional stay in favour of the petitioner. There is a money decree in favour of respondent no.1-plaintiff. The petitioner has filed a regular civil appeal in the district court to challenge the money decree. In that appeal, the application for stay is decided by the impugned order. The district court has granted a stay to the recovery of the principal amount on furnishing bank guarantee.

2. Learned counsel for the petitioner submits that in view of the arbitration clause in the agreement based on which the suit was

filed, the civil court ought to have made a reference in view of Section 8 of the Arbitration and Conciliation Act, 1996 (**'Arbitration Act'**). He therefore submits that the civil court had no jurisdiction to pass a decree. Hence, in the appeal filed to challenge the decree without jurisdiction, the petitioner would be entitled to an unconditional stay. To support his submission, learned counsel for the petitioner relied upon the decision of the Delhi High Court, in the case of *Madhu Sudan Sharma and Ors Vs. Omaxe Ltd*<sup>1</sup>.

3. In the event, the petitioner succeeds in the appeal on the ground of jurisdiction, the suit is likely to be dismissed. Hence, on that ground, I do not see any reason to interfere with the impugned order granting conditional stay. The issue of jurisdiction shall be decided by the appeal court in the substantive appeal, which is still pending. Learned counsel for the petitioner submits that the appeal is now ripe for hearing. Hence, in such circumstances, I see no reason to exercise the discretionary jurisdiction under Article 227 of the Constitution of India to interfere with the impugned order.

4. The Writ Petition is therefore dismissed.

(GAURI GODSE, J.)