



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11660 OF 2024**

Bhagwan Maruti Maharnur ... Petitioner
versus
Shobha Annasaheb Maharnur and Ors. ... Respondents

Mr. Ramakant Patil for Petitioner.
Mr. B.A.Lawate, for Respondent Nos.1, 2 and 6.
Mr.S.L.Babar, AGP for State.

CORAM: N.J.JAMADAR, J.

DATE : 8 JANUARY 2025

P.C.

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to an order dated 6 October 2023 passed by the learned Ad-hoc District Judge I, Pandharpur, whereby the application for ad-interim stay to the execution of the decree passed in Regular Civil Suit No.361 of 2012 dated 5 November 2014, came to be rejected.
3. The Petitioner/Defendant No.1 is the father in law of Respondent No.1 / Plaintiff. A suit for partition and separate possession of the joint family property was filed by the Plaintiff, being RCS No.361 of 2012. The said suit came to be decreed by a judgment and order dated 5 November 2014.
4. The Petitioner/Defendant No.1 claimed that the said decree was passed ex-parte and he was not served with the suit summons. He became

aware of the said decree when the execution proceedings were commenced and a notice was issued by the Tahasildar proposing the partition of the suit land. The Petitioner preferred an appeal along with an application for condonation of delay. In the said proceedings, the Petitioner filed an application for stay of the decree.

5. It seems that the the application for condonation of delay was not decided. In the meanwhile, the Petitioner filed an application for ad-interim stay as the decree was put to execution. By the impugned order, the District Judge, Pune was persuaded to reject the application opining, inter alia, that the Petitioner had not diligently prosecuted the application for condonation of delay.

6. The situation which obtains is that the application for condonation of delay was filed in the year 2020. Along with the said application, an application for stay was also filed. Both these applications have not yet been decided. The proceedings before the Tahasildar for delivery of the possession of the property are stated to be scheduled on 9 and 10 January 2025.

7. In these circumstances, it is necessary to stay the proceedings before the Tahasildar till the matter is heard after providing an opportunity to the Respondents.

8. Issue notice to the Respondents.

9. Mr. Lawate, learned Counsel, waives service of notice on behalf of the Respondents.
10. Respondents are at liberty to file an affidavit in reply within a period of two weeks.
11. In the meanwhile, further proceedings in the execution are stayed.
12. Stand over to 29 January 2024.

(N.J.JAMADAR, J.)