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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5147 OF 2024**

Pandurang Shankar Kharpude ... Petitioner

Vs.

Shantabai Vishnu Hivarkar and Others ... Respondents

Mr. Vilas B. Tapkir for the Petitioner.

Mr. Vignesh Ashokan i/b. Mr. Sachin H. Deokar for the
Respondents.

CORAM : GAURI GODSE, J.

DATE : 9th JULY 2025

ORDER :

1. Not on board. Taken on the production board.
2. This petition is circulated on behalf of respondents-original plaintiffs. Learned counsel for the respondents submits that the date be preponed as the petitioner has started construction of the suit property. He further submits that the suit is decreed for partition and separate possession and in view of the interim order passed by the appellate court and continued by this court the partition decree is not yet executed.

3. Learned counsel for the petitioner submits that the

petitioner is agreeable for exploring possibility of amicable settlement. He submits that within two weeks he will intimate the petitioners offer of amicable settlement to the learned Advocate for the respondents.

4. Learned counsel for the respondents submits that if any proposal is received, he will take instructions and intimate the same to the learned Advocate for the petitioner within two weeks thereafter.

5. This petition arises out of a decree for partition and separate possession. By the impugned order the petitioner's application for condonation of delay in restoring the appeal against the partition decree is rejected. Hence, it is clarified that the ad-interim relief already granted shall operate in following terms :

(i) Handing over of physical possession pursuant to the partition decree shall remain stayed, however, the process of division of property as per the partition decree shall proceed.

(ii) Parties shall not create any third party rights or change the nature of the suit property during the

pendency of the petition.

(iii) List the petition on 13th August 2025. To be listed under the caption for “Directions”.

[GAURI GODSE, J.]