

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 15916 OF 2024**

Earnest James D'Souza & Ors

..Petitioners

Versus

Khairunnisa Anwar Khan & Ors

...Respondents

Mr. Hitesh Kulbate, i/b Joseph Fernandes, for the Petitioner.

CORAM: N. J. JAMADAR, J.

DATED : 20th JANUARY 2025

P.C.:

- 1.** Heard learned Counsel for the Petitioner.
- 2.** The challenge in this Petition is to an Order dated 31st July 2024 passed by the learned District Judge on an Application for stay of execution, operation and implementation of the decree passed in RCS No. 969 of 1996 on 7th January 2023. By the said decree, the trial court has directed Defendant Nos. 1/1 to 1/4 to hand over vacant and peaceful possession of the suit property. The Defendant preferred an Appeal and sought stay to the operation and execution of the decree for delivery of possession.

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3. By the impugned order the learned District Judge was persuaded to stay the execution and operation of the decree, as execution of the decree for delivery of possession of the suit property during the pendency of the Appeal, would render the Appeal itself infructuous.

4. Mr. Fernandes, learned Counsel for the Petitioner, submitted that in the Application for stay, the Appellant did not show any justifiable cause for the stay of the decree.

5. I am unable to acceded to this submission. Since the decree is for the delivery of possession of suit property, the execution of the decree during the pendency of the Appeal would cause irreparable prejudice to the Appellant. The learned District Judge has ascribed justifiable reasons in paragraph 4 of the impugned order. The District Judge has also directed the Appellant to deposit regular monthly rent in Court and granted liberty to the Respondent to withdraw the same.

6. In this view of the matter, no interference is warranted in the impugned order.

7. The Petition stands dismissed.

[N. J. JAMADAR, J.]