

Iresh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER NO. 83 OF 2025
WITH
INTERIM APPLICATION NO. 1513 OF 2025
IN
APPEAL FROM ORDER NO. 83 OF 2025**

Smt. Akkashani Jaypal Chougule
and ors

.....Appellants

Vs.

Shri. Raosaheb Tatoba Roje and ors

.....Respondents

Mr. Ruturaj P. Pawar a/w Mr. Dheeraj patil Advocate for the Appellants

CORAM : GAURI GODSE, J.

DATE : 11th FEBRUARY 2025

ORDER:

1. Heard learned counsel for the appellants. This appeal is preferred to challenge the order of remand passed by the first Appellate Court. The order is passed in separate appeals preferred by the plaintiffs and defendants challenging the order passed in final decree proceedings in a suit for partition and separate possession. The appeal from order raises the following substantial questions of law:

(I) Whether the first Appellate Court was right in staying the proceedings before the Collector under Section 54 of Code of Civil Procedure, 1908 ('CPC') with regard to the agricultural land?

(II) Whether the first Appellate Court could have stayed the proceedings for division of the agricultural lands as contemplated under Section 54 of CPC on the ground of pendency of final decree proceedings so far as the house property is concerned?

2. Issue notice to respondents for final disposal of the appeal at the admissions stage.
3. In addition to Court notice, learned advocate for the appellants shall serve the respondents by private notice and file affidavit of service before the next date.
4. Notice is made returnable on 9th April 2025.

INTERIM APPLICATION NO. 1513 OF 2025:

5. Rule on interim relief in terms of prayer clause (a) is made returnable on 9th April 2025.

6. In addition to Court notice, learned advocate for the applicants shall serve the respondents by private notice and file affidavit of service before the next date.

7. During the pendency of the application, by way of ad-interim relief, there will be stay to the execution and operation of the clauses 4 and 5 of the operative order of the Judgment dated 7th October 2024.

[GAURI GODSE, J.]