

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.863 OF 2025**

Ashok Dundappa Madkari and Ors. ... Petitioners
versus
Dulappa Babanna Madkari (deceased)
through legal heirs and Ors. ... Respondents

Mr. Drupad S. Patil with Mr. Prasad Keluskar, for Petitioners.

CORAM: N.J.JAMADAR, J.

DATE : 21 JANUARY 2025

P.C.

1. Heard the learned Counsel for the Petitioners.
2. The Petitioners assail the order dated 17 December 2024 passed by the learned Civil Judge, Jr. Division, Gadhinglanj, Kolhapur in the execution proceedings being Regular Darkhast No.25 of 1997 ordering issue of possession warrant under Order XXI Rule 35 of the Code of Civil Procedure, 1908.
3. Learned Counsel for the Petitioners submits that the proceedings in Regular Darkhast No.25 of 1997 were stayed by an order dated 2 September 2004 passed by the executing Court, in view of the pendency of the proceedings under Bombay Tenancy and Agricultural Lands Act.
4. Since the execution of the decree was stayed by the executing Court by an order dated 2 September 2004, in view of the declaration of the judgment debtors as the tenants of the suit land, the issue warrants consideration.

5. Issue notice to the Respondent Nos.1 to 3 for final hearing, returnable on 18 February 2025.
6. In addition to the notice through Court, the Petitioners are at liberty to serve the Respondent Nos.1 to 3 by private service and file an affidavit of service.
7. In the meanwhile, there shall be an ad-interim relief in terms of prayer clause (c) of the Petition.

(N.J.JAMADAR, J.)

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