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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 66 OF 2025
WITH
INTERIM APPLICATION NO. 1302 OF 2025**

Govind Ramu Karale ... Applicant/Appellant
Vs.
Kusum @ Janabai Dattatray ... Respondents
Pawar and Others

Mr. Abhijit B. Kadam a/w. Mr. Ashish Chavan for the Appellant.
Mr. Santosh Bhosle (through VC) for the Respondents.

CORAM : GAURI GODSE, J.

DATE : 5th FEBRUARY 2025

ORDER :

1. Heard learned counsel for the appellant and respondent nos. 1 and 2. Respondent nos. 1 and 2 are the original plaintiffs. Respondent no. 3 is the original defendant no.1.
2. The present appeal is preferred by defendant no. 2 to challenge the rejection of his application for stay to the execution of the trial court's decree for partition and separate possession.
3. Learned counsel for the parties agree that since the decree is for partition and separate possession only handing over of physical

possession can be stayed during the pendency of the first appeal. Since respondent no. 3 is the original defendant no. 1 who has not preferred any first appeal, notice of this appeal is not necessary to be issued to respondent no.3. In view of the submissions made by both the counsels, the appeal is disposed of by consent by passing following order :

(i) The impugned order dated 10th January 2025 passed below Exhibit 5 in Regular Civil Appeal No. 37 of 2024 is quashed and set aside.

(ii) During the pendency of the Regular Civil Appeal No. 37 of 2024, if any possession warrant is issued for execution of the trial court's judgment and decree dated 21st October 2023 passed in Regular Civil Suit No. 375 of 2008, the same will remain stayed.

(iii) It is clarified that the proceeding for division of the property shall continue, however, actual handing over of physical possession pursuant to the trial court's decree shall remain stayed.

(iv) Appeal from order is disposed of in the above terms.

(v) In view of the disposal of the appeal, interim application is disposed of as infructuous.

(vi) This order should not be construed as any stay to the proceeding of the first appeal.

[GAURI GODSE, J.]