



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**WRIT PETITION NO. 9128 OF 2024**

Asha Tushar Marathe And Another

VERSUS

Vikram Shamrao Patil And Others

...

Mr. P. P. Mandlik, Advocate for the Petitioners

Mr. A. A. Joshi h/f Mr. S. V. Natu, Advocate for Respondent  
no.1

Mr. Sanket Kulkarni h/f Mr. B. N. Barahate Patil, Advocate for  
Respondent nos.3 to 5

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**CORAM : AJIT B. KADETHANKAR, J.**

**DATED : 25<sup>TH</sup> MARCH, 2026**

**FINAL ORDER :-**

. In the Regular Civil Appeal No.43 of 2024 pending before the learned District Judge, Dhule, the present petitioners have filed an application for staying the execution and operation of the decree that is passed against them for hand over of possession. The said application came to be dismissed vide order dated 06.07.2024 by the learned District Judge-5 Dhule. While dismissing the application, the learned District Judge observed thus:

*9. The appellants by seeking stay to the execution of decree are indirectly claiming protection of their possession over the suit property. As mentioned above, the Trial Court observed that the appellants are in unlawful possession of the suit property. The appellants case about possession over the suit property is*

*based on agreement for sale. The appellants had filed separate suit bearing Spl.C.S.No.08 of 2019 for specific performance of agreement for sale. However, the copy of judgment of said suit shows that the said suit came to be dismissed. The Trial Court in the said judgment observed that the agreement for sale is illegal.*

2. Feeling aggrieved by the rejection of interim relief, the petitioners who suffered the decree for possession are before this Court in the present Writ Petition.

3. Vide order dated 26.08.2024, this Court granted protection to the petitioners for certain period. It is not in dispute that the interim protection is still in operation even today.

4. Mr. P. P. Mandlik, learned Counsel for the petitioners would submit that the appeal before the District Court is ready for hearing and the petitioners will argue the matter on the date as this Court shall fix. He makes further statement that the petitioners shall not seek unnecessary adjournment before the District Court and shall not protract the proceedings any more. He would submit that in terms of the order passed by this Court on 26.08.2024, the petition be disposed of with directions to the District Court to conclude the appeal hearing within time frame manner.

5. Mr. Sanket Kulkarni h/f Mr. B. N. Barahate Patil, learned Counsel for the respondents has strong objection to such prayer. He would submit that the findings recorded by the District Court at paragraph no.9 and onwards supra would

clearly show that the petitioners are not at all entitled for the interim relief. He would point out that it has come on record that the suit for specific performance of contract is dismissed and petitioners' possession is held expressly to be illegal. He would submit that in view of that continuing protection to the petitioners would seriously prejudice the interest of his client.

6. I have heard both the learned Counsels at length. It is a matter of fact that the Regular Civil Appeal No.43 of 2024 is ready for hearing, all the parties have caused appearance before the District Court. The interim relief in favour of the petitioners is running from 26.08.2024 without any interruption.

7. In view of this, I deem it appropriate to dispose of this Writ Petition with a request to the District Court, Dhule to conclude the hearing of the Regular Civil Appeal No.43 of 2024 preferably within a period of six months, and it is ordered accordingly.

8. The statement made on behalf of the petitioners that the petitioners shall not seek unnecessary adjournment in the appeal proceedings is taken as undertaking.

9. If the paper book is not prepared by the Registry of the District Court, the parties are at liberty to prepare private paper book and produce before the Court for early disposal.

10. In view of this, the Writ Petition stands disposed of. Interim relief granted by this Court vide order dated 26.08.2024 shall continue till further period of six months. If the hearing of the Regular Civil Appeal is prolonged beyond six months due to any reason beyond the control of the learned Counsel for the parties, the petitioners are at liberty to seek extension of the interim protection.

( AJIT B. KADETHANKAR, J. )

*Rushikesh/2026*