



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

WRIT PETITION NO. 656 OF 2026

SHAKEELABI ALIAS SHAKILABI SHABBIR SHAIKH AND
OTHERS
VERSUS
HURBANO LATIF KHAN PATHAN AND OTHERS

...
Mr. Saurabh Sunil Munot, Advocate for the Petitioners.

...
CORAM : S. G. CHAPALGAONKAR, J.
DATED : 19th JANUARY, 2026.

P.C.:-

1. The present writ petition takes exception to order dated 14.08.2023 passed below Exhibit-5 by District Judge, Dhule in Regular Civil Appeal No.60/2023, by which stay has been granted to judgment and decree dated 23.03.2023 passed below Exhibit-32 by Civil Judge Senior Division, Dhule in Special Civil Suit No.271/2022.

2. The petitioners filed suit for decree of partition and separate possession in respect of suit properties. The Trial Court decreed suit vide judgment and decree dated 23.03.2023 and declared share of parties to suit. The aforesaid decree has been assailed in Appeal by third parties, who were not party to suit. The learned District Judge granted stay to execution of decree vide impugned order observing that if decree under Appeal is not stayed, appellants would suffer irreparable loss.

3. It can be observed that impugned order is passed on 14.08.2023, whereas writ petition is filed after two years without explaining delay in approaching this Court. Further it is trite that once Appeal is filed against partition decree, substantive rights of parties are subject to decision of Appellate Court in Appeal. In such a contingencies, it is always advisable that execution of decree is stayed. The learned District Judge has rightly observed aforesaid aspects of matter and stayed execution and operation of decree dated 23.03.2023 by impugned order.

4. In that view of matter, this Court do not find any merit in writ petition. Hence, Writ Petition stands dismissed. However, it is expected that learned District Judge would endeavour to decide substantive Appeal expeditiously and in any case within period of one year from today.

(S. G. CHAPALGAONKAR)
JUDGE