



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

**CIVIL APPLICATION NO. 10309 OF 2025
IN SA/368/2025**

**NAGABAI RAMA JAWADWAD (DEAD) THROUGH LRS KERABAI
PANDITRAO WALLAMWAD AND ORS**

VERSUS

LINGOJI MASHNAJI (GANGALWAD) JAWADWAD AND ORS

WITH

SECOND APPEAL NO. 368 OF 2025

...

Advocate for Applicants : Mr. Vivekanand Bhagwanrao Deshmukh

Advocate for Respondent No.1 : Mr. L. V. Sangit

...

CORAM : MEHROZ K. PATHAN, J.

DATE : 17th APRIL 2026

PER COURT :

1. Heard the learned Counsel Mr. Deshmukh for the Applicants as well as the learned Counsel Mr. Sangit for Respondent No.1.

2. The Second Appeal was admitted by order of this Court dated 26.09.2025. The Civil Suit filed by the Plaintiff for eviction and possession came to be dismissed, whereas the First Appellate Court allowed the appeal, holding the Defendants–Appellants herein to be encroachers and directing them to hand over possession to the Plaintiff.

3. The learned Counsel Mr. Deshmukh submits that the Plaintiff has now filed execution proceedings and is pressing for

possession. Hence the application for stay of the impugned judgment may be allowed.

4. As against this, the learned Counsel for Respondent No.1 Mr. Sangit, who has filed an affidavit opposing the present application for grant of stay, submits that the Appellate Court has rightly held the Applicant to be encroacher and directed to evict the premises and handover possession to Plaintiff. The Appeal is admitted only on the ground and question on limitation and not on any other substantial question of law. Hence the application for stay may be rejected.

5. The perusal of the order dated 26.09.2025 shows that the Appeal was admitted after hearing the Appellant and the then Counsel for the Respondent/Plaintiff on the substantial questions of law framed therein. The Trial Court had earlier rejected the Plaintiff's claim and dismissed the suit, but the Appeal was subsequently allowed. The Plaintiffs have now filed execution proceedings for enforcement of the Appellate Court's decree.. Hence I am inclined to pass the following order :

ORDER

(i) The Civil Application is allowed in terms of prayer clause 'B' which reads as under :

B. Pending hearing and final disposal of this Second Appeal, the impugned judgment and decree passed by the District Judge-1, Kandhar in Regular Civil Appeal No. 48/2013 dated 31.07.2025 may be stayed.

(ii) It is made clear that the Defendants/Appellants, who are in possession of the property, shall not create any third-party interest in the meanwhile.

MEHROZ K. PATHAN
JUDGE

NATHEEB..