

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12887 OF 2025**

Rashidkhan Babasaheb Jamadar	...Petitioner
<u>Versus</u>	
Mrs. Dipali Dipak Dharmadhikari	...Respondent

Ms. Shama Mulla for the petitioner
Adv. S. M. Pise for the respondent

CORAM : NITIN B. SURYAWANSHI, J.
DATE : 2nd FEBRUARY 2026.

P.C.

1. Heard.
2. This Petition filed under Article 227 of the Constitution of India, challenges the order dated 11/11/2025 passed by Ad-hoc District Judge-3 and Additional Sessions Judge, Sangli below Exhibit 14 in Regular Civil Appeal No. 153 of 2024.
3. In Regular Civil Suit No. 26 of 2020, the Trial Court has passed a decree against the petitioner-defendant that he shall pay an amount of Rs. 5,00,000/- to the plaintiff alongwith interest at the rate of 6% per annum from the date of payment i.e. 27/10/2016 till its realization. Being aggrieved by the said Judgment, petitioner filed Regular Civil Appeal. In the Appeal, Application Exhibit 14 is filed for stay of the Judgment and Decree dated 30/04/2024. Upon hearing the parties, the Appellate Court has granted stay to the Judgment and

Decree passed by the Trial Court by directing the petitioner to deposit 50% of the amount due from him in the execution proceedings, within 20 days before the Executing Court. Petitioner is aggrieved by this condition.

4. Heard learned advocate for the petitioner, learned advocate for respondent. Perused the grounds raised in the Writ Petition, annexures thereto and the impugned order.

5. Learned advocate for the petitioner tried to argue on the merits of the Appeal stating that the suit was filed for dissolution of the partnership firm and in which the Trial Court has passed a money decree which is incorrect. She would submit that partnership deed was not registered. Therefore, the suit filed by the respondent-plaintiff was not maintainable. She submits that amount of Rs. 25,000/- is deposited which is sufficient and the Appellate Court has erred in imposing the condition to deposit 50% of the decretal amount.

6. *Per contra*, learned advocate for the respondent strenuously opposed the petition stating that respondent-decree holder has filed execution petition for recovery of amount of Rs. 7,31,230/-. The condition imposed by the Appellate Court while granting stay to the Trial Court's decree is discretionary order and the same is not liable to

be interfered with. She therefore, prays for dismissal of the Writ Petition.

7. Admittedly, money decree is passed by the Trial Court against the petitioner. It is well settled that money decree is not to be stayed without depositing at least 50% of the amount. By now, the amount to be recovered from the petitioner is about Rs. 7,91,230/-. The Appellate Court has rightly imposed a condition to deposit 50% amount. The Appellate Court has exercised discretion in consonance with the settled legal position, which is not liable to be interfered with in extraordinary Writ jurisdiction. No case is made out by the petitioner to interfere in the impugned order.

8. Writ Petition being devoid of merit, is dismissed.

(NITIN B. SURYAWANSHI, J.)

IRESH
MASHAL

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