



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.16784 OF 2025**

Chandrakant Govind Mehetar and Ors. ... Petitioners
versus
Ramji Devasthan Trust, Apte
Through Trustee and Anr. ... Respondents

Ms. Tooba R. Momin (through VC) for Petitioners.
Mr. Rohit Joshi, for Respondent No.1.
Mr. A.C.Bhadang, AGP for State.

CORAM: N.J.JAMADAR, J.

DATE : 17 FEBRUARY 2026

P.C.

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to an order dated 4 August 2025 passed by the learned Civil Judge, whereby the application preferred by the Petitioners – judgment debtors to stay the execution of the decree in RCS No.132 of 2004 under the provisions of Order XXI Rule 29 of the Code of Civil Procedure, 1908, on the ground of pendency of RCS No.127 of 2015 instituted by the Petitioners, came to be dismissed.
3. The Respondent No.1 trust had instituted the suit for recovery of possession of suit land on the premise that the Defendant – predecessor in title of the Petitioners was a tenant and the trust required the suit land for cultivation and augmentation of its income. The decree of eviction has attained finality. By instituting RCS No.127 of 2015, the Petitioners are

seeking declaration of title by way of adverse possession. As RCS No.132 of 2004 has been decided on merits and the defence of the Petitioners has been discarded, at this stage, there is no propriety in staying the execution of the decree passed in RCS No.132 of 2004 on the premise that RCS No.127 of 2015 instituted by the Petitioners is subjudice. Ordinarily, permissive possession cannot become adverse.

4. In any event, the Court is not obligated to stay the execution of the decree even when the requirements of Order XXI Rule 29 are fulfilled. The power to stay is purely discretionary.

5. Learned Civil Judge has correctly exercised the discretion not to stay the execution of the decree passed in RCS No.132 of 2004.

6. The Writ Petition, being devoid of substance, stands dismissed.

(N.J.JAMADAR, J.)