

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 4401 OF 2026

1. Aditya Dharmendra Goyal
2. Smt. Lata Dharmendra Goyal ...Petitioners

Vs.

1. The State of Maharashtra
2. Additional Collector, Dist. Thane
3. The Tahsildar and Executive Magistrate
Office at Thane
4. The Talathi, Saja: Diva, Dist. Thane ...Respondents

Senior Counsel Rajendra Pai a/w Adv. M. A. Khan, Adv. Deepti Mehta, Adv. Sunil Rathod, Adv. Preeti Rajoria, Adv. Suryajeet Ravrane, Adv. Akshay Pai - Advocate for the Petitioners
Smt. R. M. Shinde – AGP for the Respondent-State

CORAM : M. S. KARNIK AND
S. M. MODAK, JJ.

DATE : 08th APRIL 2026

P.C. :-

1. Heard learned Senior Counsel Shri Pai for the Petitioners and Ms. Shinde, learned AGP for Respondent-State.
2. This petition challenges the order dated 18th January 2024

passed by Respondent No. 3-Tahsildar and Executive Magistrate. The Appeal No. 228 of 2025 has been filed challenging the order dated 18th January 2024 and the order passed by SDO. The appeal has been filed before the Respondent No. 2-Additional Collector, District Thane. The appeal is still pending. In the pending appeal, an application for stay has been filed.

3. It is grievance of Mr. Pai, learned Senior Counsel that application for stay has not yet been decided. However, even before the application for stay could be decided, the Tahsildar is proceeding to execute the order dated 18th January 2024.

4. Mr. Pai, learned Senior Counsel further submitted that an attempt was made on the part of the Petitioners to file an appropriate application under Second Proviso to Section 256 (2) of the Maharashtra Land Revenue Code, 1966 for reduction of the amount of deposit of 25%. However, such application was not accepted by the Respondent No. 2-Additional Collector.

5. We find that in the similar situation, this Court had passed appropriate directions in the matter of *Aditya Dharmendra Goyal and Anr. Vs. The Tahasildar and Executive Magistrate, Thane and Ors.* in

Writ Petition No. 5604 of 2025, dated 07th May 2025. Para no. 3 of the order reads thus :-

3. After hearing the learned Senior Advocate for the petitioners as well as the learned Assistant Government Pleader for the respondents, we find that under the First Proviso to Section 256(2) of the Code, in an appeal preferred against an order directing payment of an amount to the State Government, the execution of such order cannot be stayed unless the appellant deposits 25% of such amount payable to the Government. Under the Second Proviso to Section 256(2) of the Code, in exceptional cases the Appellate Authority after recording reasons in writing can suitably reduce the amount of deposit of 25%. In the light of these statutory provisions, it would be open for the petitioners to invoke the Second Proviso to Section 256(2) of the Code and seek reduction in the amount of the mandatory deposit, in case the Appellate Authority is inclined to grant stay. In that view of the matter, the following order is passed :-

- (i) While seeking stay of the order dated 3rd December, 2024, it would be open for the petitioners to request the Appellate Authority to reduce the amount of deposit as mandated by the First Proviso to Section 256(2) of the Code.
- (ii) If such application is made by the petitioners within a period of ten days from today, the same shall be considered and decided by the Appellate Authority

on its own merits and in accordance with law within a period of four weeks from that date.

- (iii) Till the said application is considered, the Tahsildar/Circle Officer shall not take any further steps pursuant to the communication dated 27th March 2025.
- (iv) It is clarified that this protection is without entering into the merits of the case and only to enable the petitioners to make such request.
- (v) In case any adverse order is passed by the Sub-Divisional Officer, the same shall not be implemented for a period of two weeks from the date of its communication to the petitioners.

6. Learned AGP though opposed the petition and insisted that the Petitioners must deposit the amount of 25%, we are inclined to issue the same directions as in the matter of *Aditya Dharmendra Goyal and Anr.* (Supra).

7. In this view of the matter for the same reasons as stated in para no. 3 of the aforesaid order, we pass the following order :-

ORDER

- (i) While seeking stay of the order dated 18th January 2024 passed by Respondent No. 3-The Tahsildar and Executive Magistrate and order dated 13th January 2025 passed by SDO, Thane, it would be open for the Petitioners to request the Respondent No. 2-Appellate Authority to reduce the amount of deposit as mandated by the Second

Proviso to Section 256 (2) of the Code.

- (ii) If such application is made by the Petitioners within a period of ten days from today, the same shall be considered and decided by the Appellate Authority on its own merits and in accordance with law within a period of four weeks from that date.
- (iii) Till the said application is considered, the Tahsildar/Circle Officer shall not take any further steps pursuant to the order dated 18th January 2024.
- (iv) It is clarified that this protection is without entering into the merits of the case and only to enable the Petitioners to make such request.
- (v) In case any adverse order is passed by the Appellate authority, the same shall not be implemented for a period of two weeks from the date of its communication to the Petitioners.

8. Keeping all issues on merits open and with the aforesaid directions, the Petition is disposed of.

(S. M. MODAK, J.)

(M. S. KARNIK, J.)