



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.7252 OF 2025

HARISH KESHAV BAMNIYA AND OTHERS

VERSUS

SHANKAR BHADUJI NIMSATKAR

*Office Notes, Office Memoranda of
Coram, Appearances, Court's
orders or directions and Registrar's
orders*

Court's or Judge's orders

Mr. A.M. Chandekar, Advocate for Petitioners.

Mr. S.N. Bhattad, Advocate for Respondent.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATED : 28th JANUARY 2026

PER COURT :-

1. Heard learned Advocate for the petitioners as well as learned Advocate for the respondent.

2. By this petition, the petitioners have challenged the order dated 07.10.2025, passed by District Judge-2, Chandrapur, on an application at Exhibit 05, in Regular Civil Appeal No.105 of 2025, under Order 41, Rule 5 of the Code of Civil Procedure, 1908 (for short, "C.P.C."), by which the appellate court has rejected the said application.

3. The application under Order 41, Rule 5 of C.P.C., was filed by the appellant/defendant, for stay of execution of the judgment

and decree dated 02.09.2025, passed by the Court of Civil Judge Senior Division, Chandrapur, in Regular Civil Suit No.51 of 2017.

4. While considering the contentions canvassed by the parties, it is revealed that during pendency of the civil suit, in accordance with an order dated 13.10.2021, passed by this Court, in Writ Petition No.886 of 2018, it was observed that the order passed by the appellate court in M.C.A. No.43 of 2017, dated 28.09.2017, was to be complied by both the parties and the suit was directed to be decided expeditiously. Accordingly, the writ petition was disposed of by order dated 13.10.2021, by recording the consent of parties to maintain the position as per operative part of the order dated 28.09.2017, in M.C.A. No.43 of 2017, which is reproduced below.

“1. The Misc. Civil Appeal is partly allowed.

2. The order below Exh.5 passed by the learned 4th Joint Civil Judge (Jr.Dn.), Chandrapur is hereby set aside to the extent of restraintment from obstructing construction activities over the suit property by the plaintiff till disposal of the suit.

3. The impugned order in so far as restraining the defendants temporarily from illegally dispossessing the plaintiff is hereby maintained.

4.”

5. After the suit is finally decided, now the statutory appeal is filed by the defendant bearing R.C.A. No.105 of 2025, which is pending. Having regard to the controversy involved, it will be in the interest of justice that the parties maintain the property in the same position during pendency of the appeal. The interest of justice will be subserved if the parties are directed to maintain status quo during pendency of the appeal and regular civil appeal is directed to be expeditiously decided.

6. Hence, the writ petition is disposed of. The parties are directed to maintain status quo during pendency of the appeal. The appellate court is requested to decide R.C.A. No.105 of 2025, expeditiously and preferably within a period of six months from the date of this order.

(PRAFULLA S. KHUBALKAR, J.)

asd