



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

WRIT PETITION NO.1842 OF 2026

BABARAO SUKHDEV DHOTE AND OTHERS

VERSUS

VIJAY VITTAL BHEDEKAR AND ANOTHER

<i>Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders</i>	<i>Court's or Judge's orders</i>
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Mr. S.M. Bahirwar, Advocate for Petitioners.

Mr T.M. Malnas, Mr. A.J. Gilda, Advocate for Respondents.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATED : 30th MARCH 2026

PER COURT :-

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

2. By this petition, the petitioners have challenged an order dated 23.01.2026, passed by the Court of Ad-hoc District Judge-1, Darhwa, at Exhibit 05, in Regular Civil Appeal No.03 of 2026, by which the application for stay under Order XLI Rule 5 of the Code of Civil Procedure, 1908 is allowed. While passing the impugned order, the appellate court has recorded that the arguable issues raised in the appeal necessitate the preservation of the status quo and by referring to the earlier interim arrangement, which had operated during pendency of the suit, the impugned order is passed. The reference to

the earlier arrangement is reflected in para No.8 of the impugned order, which is reproduced below.

“8. The litigation history reveals that during the suit’s pendency, the Honourable High Court (WP 6829/2016) upheld the vacation of the respondents’ temporary injunction. The High Court directed the maintenance of the status quo arrangement as per the appellate court’s order in MCA 12/2016. This interim arrangement, which did not favor the respondents’ claim of exclusive possession, governed the parties for nearly nine years.”

3. Learned Advocate for the petitioners submits that while recording the findings by the trial court while deciding the civil suit, it is held that the petitioners, who are the original plaintiffs, are in possession of the suit property. He submits that in view of the stay granted by the appellate court by the impugned order, there is a possibility of disturbance to the petitioners’ possession.

4. To controvert this contention, learned Advocate for the respondents submits that the respondents are in fact having possession of the suit property and in view of the interim arrangement, which had operated during pendency of the suit, their possession was protected for last nine years. He submits that the petitioners have suppressed material facts about an earlier order passed by this Court in Writ Petition No.679 of 2025, dated 27.03.2025, in which this Court has taken note of the conduct of the

petitioners, who have made allegations against the Presiding Officer of the Maharashtra Revenue Tribunal. He submits that there is no disclosure of this order in the memorandum of petition and therefore, the petition deserves to be dismissed on that count.

5. By the instant petition, the petitioners have challenged the order passed by the appellate court allowing the application for stay during pendency of regular civil appeal. A perusal of the impugned order reveals that the appellate court has recorded reasons in para Nos.7 to 10, for granting interim stay. It has to be noted that after considering the litigation history, the appellate court has observed that this Court had directed maintenance of status quo arrangement as per the appellate court's order in MCA No.12 of 2016 and the said interim arrangement governed the parties for nearly nine years. Considering this aspect along with other aspects on merits, the appellate court has granted stay during pendency of the appeal.

6. It has to be noted that the contentions canvassed on behalf of the petitioners about their possession are subject matter of adjudication in the appeal. At the stage of considering the application for stay, the appellate court has considered all the relevant aspects. I do not find any perversity with the approach adopted by the appellate court in granting stay, which would operate during pendency of the

appeal. It is, however, clarified that the observations recorded by the appellate court are at the stage of deciding the application for stay and the Regular Civil Appeal is required to be decided by considering the evidence on record and the position of law, without being influenced by these observations.

7. In view of the factual and legal aspects mentioned above, I do not find any perversity with the impugned order warranting indulgence under Article 227 of the Constitution of India. The writ petition is, therefore, dismissed with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)

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