


MHAH080023622022 	<u>ORDER BELOW EXH-47 IN REG.</u> <u>DKST. NO. 149 OF 2022.</u> (Karbhari Gopala Pawbake Vs. Uttam Murlidhar Pawbake)
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The present execution proceeding has been filed by the Decree-Holder for execution against the Judgment-Debtor in accordance with the decree passed in the original Regular Civil Suit No. 101/2006. In the present execution proceeding, by order below Exh.33, the decree holder is allowed to get the encroachment removed as per decree by removing construction of 'ota' and 'grill' of defendant. However, the JD by application at Exh.38 prayed for suspension of implementation of said order so that he can challenge the order below Exh.33.

02. The order below Exh.33 was passed on 02/02/2026, the JD moved application under Order 21 Rule 26 of the CPC at Exh.38 for suspension of implementation of order below Exh.33, on 04/02/2026. In order to grant fair opportunity to JD, implementation of order below Exh.33 was suspended for period of 10 days i.e. till 13/02/2026. However, today the JD again moved this application to extend the suspension till 18/02/2026.

03. The JD has filed copy of status report of WPST No. 4622/2026 showing that, it is on Pre-Admission stage. However, there is no order granting stay over the order below Exh.33. The DH filed say overleaf of the application and

submitted that, this application by JD is not maintainable because there is no stay order from the Hon'ble High Court.

04. Heard both sides. Perused the record. The application at Exh.38 was moved by JD with submission that, he intends to challenge the order below Exh.33. Therefore, he prayed for stay to execution, so that he can move to Appellate Court against order below Exh.33. After considering the material on record, the implementation of order below Exh.33 i.e. common order below Exh.33 and 35 was suspended till today with direction that in absence of any stay order from the Appellate Court, order below Exh.33 dated 02/02/2026 shall be effected.

05. However, today the JD has submitted copy of status report of Writ Petition. But, mere filing of Writ Petition which is on pre-admission stage does not operate as stay over the order which is challenged in such Writ Petition. Therefore, in absence of any stay order from the Appellate Court, the order below Exh.33 dated 02/02/2026 shall take effect as per order below Exh.38 dated 04/02/2026. Further extension of stay will amount to contradiction with the previous order of this Court passed below Exh.38 dated 04/02/2026. Hence, I proceed to pass following order:

<u>ORDER</u>	
1.	Application Exh.47 is rejected.

Place : Sangamner
Date : 13/02/2026

(S. B. Dhawale)
Jt. Civil Judge, Jr. Division,
Sangamner.