

MHAU170001362025



REGULAR CIVIL APPEAL 13/2025

Sadhana Bhalchandra Rodi & Ors.

vs.

Pushpa Prakash Kotambe & Ors.

ORDER BELOW EXHIBIT 05

1] This is an application by the appellant for stay to the execution of judgment and decree dated 08-12-2023 passed by the learned Civil Judge J.D. Paithan in R.C.S No. 73/2017 till the disposal of appeal.

02] Respondents No.1 and 2 have filed their reply vide Exh. 10 and thereby resisted the application. Respondent No.3 failed to appear and submit her say.

03] Heard the learned counsel for both sides. Perused the impugned judgment, present application and the say thereon. It appears that present respondents instituted the suit for partition of the suit properties and for inquiry into mense profit. The plea of appellants was that the suit properties are their self-acquired properties. The learned trial court decreed the suit and held that plaintiffs and defendant No.5 have 1/4th share each and defendant Nos. 1 to 4 have collectively 1/4th share and individually 1/16th share each in the suit properties bearing Gut No. 16, admeasuring 3 H 71 R and Gut No. 137 admeasuring 2 H 11 R, situated at Katpur, Tq. Paithan, Dist. Aurangabad. It is the

submission of the learned counsel for the appellants that the learned trial court has committed an error in decreeing the suit and therefore, the appellants are challenging the decree by way of present appeal and the appeal will take sufficient time for its disposal and therefore, the execution and implementation of the decree needs to be stayed. As against this, it is the submission of learned counsel for the respondents that the impugned judgment and decree is just, legal and proper and therefore, there is no question of staying its execution.

04] I have given thoughtful consideration to the submissions of both sides. The parties involved in the lis are relatives of each other and the dispute between them is about ancestral property. The respondents were claiming partition and the appellants were saying that the suit properties are ancestral. On hearing the submissions of learned counsel for both the parties and on going through the impugned judgment, I find that there are arguable points in the appeal and the same goes to the root of the matter. Consequently, the execution and implementation of the judgment and decree needs to be stayed. Moreover, the appeal is a statutory right of the aggrieved party. The appellants being aggrieved parties are exercising their statutory right by filling the present appeal. The appeal would take sufficient time for its disposal and therefore, the execution and implementation of decree needs to be stayed. I, therefore, proceed to pass following order.

ORDER

1] Application Exh. 05 is hereby allowed.

- 2] The execution and implementation of judgment and decree dated 08-12-2023 passed by the learned Civil Judge, Junior Division, Paithan in R.C.S No. 73/2017 is hereby stayed till the disposal of appeal.
- 3] Inform the learned Civil Judge, J.D. Paithan accordingly.

Date : 18.11.2025

(R.D.Gadwe)
District Judge-1, Paithan.

CERTIFICATE

I affirm that the contents of this P.D.F file order are same word to word, as per the original order.

Name of the Stenographer	: M.B. Khonde
Court Name	: District Judge-1 & ASJ Paithan
Date	: 18.11.2025
Order signed by the Presiding Officer on	: 18.11.2025
Order uploaded on	: 19.11.2025