

MHBU040011042023



Reg.Civil Appeal No.37/2023  
Sanj Dainik Lokopchar  
Through-Kishor Ruparel  
Vs  
Gokulchand Sananda

**Order below Exh.18**

1. Appellants on 17.04.2026 have filed the application Exh.17 for taking the case on board along with application Exh.18 to prepone the case for immediate hearing and adjudication on stay application Exh.5. On same day in first session the advocate for respondent was called out for filing say but he was absent. Hence, in second session also his advocate Mr. S.T.Joshi was called out. He was absent but his junior Mr. P. G. Deshmukh advocate was present. He submitted that his senior instructed him to make submission to keep matter for hearing on stay application 20.04.2026. Therefore, considering the above aspect I have passed the order that the appeal be pre pone for hearing on stay application on 20.04.2026 instead of 06.05.2026.
2. On 20.04.2026 when matter was called out advocate for appellant was present and advocate for respondent was also present. On oral submission of both sides, matter was kept on 21.04.2026.
3. On 21.04.2026 the advocate for respondent Mr. S. T. Joshi has filed his detail reply at Exh.19 to the application filed by the appellants to pre pone the case . He has also placed on record the documents below Exh.21.
4. Advocate for the appellants Mr. P. R. Joshi has submitted that this Court has already passed the order of preponing the case. He

submitted that, the executing Court has issued the notice for attachment of movable property of the appellants, therefore, it is necessary to prepone the case for hearing. On the other hand, Mr. S. T. Joshi advocate for the appellants has submitted that he be heard before preponing the case. Considering his submission I am of the opinion that it would be just and proper to hear him and to pass the order on Exh.18 again.

5. Accordingly I heard Mr. S. T. Joshi for the respondent. He has submitted that, appellants has misguided this Court to prepone the case. He submitted that, the appellants themselves are negligent for prolonging hearing on said application because they were remaining absent and due to it matter was posted on 06.05.2026. He submitted that as per documents placed on record by the respondent it shows that appellants are negligent. He submitted that the executing Court has passed the stay order but appellants have not deposited the decretal amount. He further submitted that respondent is 91 years old man and he is not getting the fruits of decree. Present application does not come within the ambit of Section 151 of the Code of Civil Procedure. He further submitted that Section 148 and Order 17 of the Code of Civil Procedure is not applicable to the present case. Moreover, Chapter 4 of the Civil Manual are not applicable for preponing the case. Hence, he urged to reject the application or recalling the order of preponing. He relied the following authorities :-

- (i) *Taranjeet Singh Mohan Singh Sawhny & Ors Vs Dist.Dy.Registrar Co-op. Societies, 2013 AIR SCW 5155*
- (ii) *Yogesh Chandulal Mehta Vs The State of Maharashtra and others, 2023:BHC-05:2864-DB*
- (iii) *Snp Shipping Services Pvt.Ltd. Vs Kara Mara Shipping Co.Ltd. And others, AIR2000BOM57*

6. I have thoughtfully considered the submission of both the sides. Perused the application, say filed by the respondent, the documents placed on record by the respondent and the authorities cited supra by him.

7. The record shows that respondent had filed the Special Civil Suit No.17/2013 against the appellants for damages and permanent mandatory injunction in respect of Rs.25,00,000/- before the Civil Judge Senior Division, Khamgaon. The Ld. C.J.S.D, passed judgment and decree on 30.06.2023 and decreed the suit with costs. Defendants are directed to pay jointly and severally an amount of Rs.25,00,000/- to the plaintiff towards compensation within period of three months from the date of decree. The defendants perpetually restrained from publishing any defamatory articles against the plaintiff and his family members.

8. Being aggrieved and dissatisfied with the judgment, appellants have filed present appeal along with stay application which is still pending for hearing. Respondent has also filed the darkhast No.241/2023 which is pending before the C.J.S.D.,Khamgaon. It shows that executing Court has passed the order of attachment of movable property of the J.D.No.1 and 3 by breaking their lock as per Section 60 of the Code of Civil Procedure. Admittedly, respondent is 90 years old man and he should get the fruits of decree but at the same time opportunity of hearing on stay application should be given to the both sides. First Appellate Court being a last fact findings Court, therefore, it is necessary to decide the appeal as well as stay application expeditiously. I have respect to the observation of the Hon'ble Supreme Court and the Hon'ble Bombay High Court in the cases cited supra by the respondent but it is not helpful to the respondent because facts are different. According to me this is fit case

to exercise inherent power under Section 151 of the Code of Civil Procedure for preponing the case on next date instead of 06.05.2026. In the light of above reasons and discussions the application deserves to be allowed. In result, I pass the following order.

**ORDER**

- (1) The application Exh.18 is hereby allowed.
- (2) The case be preponed on 23.04.2026 for hearing on stay application.
- (3) Costs in cause.

Date : 22.04.2026  
Place: Khamgaon.

(G. B. Jadhav)  
District Judge-2, Khamgaon

**Certificate**

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

Name of Court : Addl. Sessions Judge, Khamgaon,  
Dist.Buldana.

Name of Steno : G.P Bhonde (Stenographer Grade-II)

Dictated on : 22.04.2026

Checked & Signed on : 22.04.2026

Decided on : 22.04.2026

Uploaded on : 22.04.2026