

**Darkhast No.74/2025**

Quazi Ziauddin Quazi Firoz Ali & othrs.

V/s.

State Thro. Collector, Buldhana & othrs.

**ORDER BELOW EXH.24**

The Judgment-debtor has filed application under Order XXI, Rule 26 of the Code of Civil Procedure to stay of the execution.

2. It is submitted by the Ld. Advocate for judgment-debtor that decree-holder has filed the present Darkhast to execute the decree passed in Special Civil Suit No.30/2019 (Old Spl.C.S. No.4/2017). In the said Darkhast, on 04/02/2026 the court has passed order under Order XXI, Rule 35 of C.P.C. against judgment-debtor No.2. The judgment-debtor No.2 has filed appeal No.8/2025 against the decree passed in Special Civil Suit No.30/2019 also the stay application is pending in the District Court, Mehkar. In the suit property *Anganwadi* class is going on, therefore, if possession of the suit property is taken, the judgment debtor will suffer irreparable loss. Therefore, he prayed to stay execution under Order XXI, Rule 26 of C.P.C.

3. Decree-holder has filed say at Exh.25. He denied that the *Anganwadi* class is going in the suit property. He submitted that already judgment debtor has filed appeal in the District Court, Mehkar and therein, he has also filed stay application. Therefore, the present application is not maintainable. Already the court has issued possession warrant. Therefore, now stay cannot be granted to the present execution proceeding. Thus, he prayed for rejection of the application.

4. Heard both Ld. Advocates for decree-holder and judgment-debtor. Perused record of the case.

5. Order XXI, Rule 26 of C.P.C. provides that the Court to which a decree has been sent for execution shall, upon sufficient cause being shown, stay the execution of such decree for a reasonable time, to enable the judgment-debtor to apply to the Court by which the decree was passed, or to any Court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay execution, or for any other order relating to the decree or execution which might have been made by such Court of first instance or Appellate Court if execution had been issued thereby, or if application for execution had been made thereto.

6. As per Order XXI, Rule 26 of C.P.C. the executing court can grant stay to give opportunity to the judgment-debtor to file appeal to the court having appellate jurisdiction. In the present case record shows that the judgment debtor has already filed appeal i.e. R.C.A. No.8/2025 in the District Court, Mehkar. He also filed stay application in the said appeal. In the present case already sufficient time was given to the judgment-debtor. Moreover, no stay has been granted by the appellate court to stay the present execution proceeding. Moreover, having pending stay application in the appellate court, this court cannot grant stay under Order XXI, Rule 26 of the C.P.C. Therefore, there is no substance in the present application. Accordingly, I pass following order.

(3)

Darkhast No.74/2025  
Quazi Ziauddin & ots. Vs. Collector & ots.

**ORDER**

Application at Exh.24 is rejected.

Date : 20/04/2026

**( T. S. Gaigole )**  
Civil Judge Senior Division,  
Mehkar.

Darkhast No.74/2025 (0)  
Quazi Ziauddin & ots. Vs. Collector & ots.

**CERTIFICATE**

I affirm that the contents of this <a href="#">P.D.F.</a> file order is same, word to word, as per the original order.	
Name of the Stenographer Grade II	Balkrishna M. Shilwant.
Court	Civil Judge Senior Division, Mehkar.
Date	20/04/2026
Order signed by the presiding officer on	20/04/2026
Order uploaded on	20/04/2026