

ORDER BELOW EXHIBIT 1 in R.D. No.11/2019

(Narayanrao Vyasacharya Kulkarni & Ors. Vs. Abdul Hakim Abdul Gani & Ors.)

1) Heard both sides. The decree is for partition. Ld. Advocate Shri.O.N.Maske has relied upon judgment dated 18/11/2022 of the Hon'ble Punjab Haryana High Court in *Bhoj Raj Garg Vs. Goyal Education and Welfare Society & Ors.* [SLP No.19654/2022] relying upon judgment of the Hon'ble Supreme Court in *Rahul S. Shah Vs. Jinendra Kumar Gandhi & Ors.* [(2021) 6 SCC 418] and observed:-

"In the said decision, this Court held as follows:-

"42. All Courts dealing with suits and execution proceedings shall mandatorily follow the below mentioned directions:-

...

14. The executing Court must dispose of the execution proceedings within six months from the date of filing, which may be extended only by recording reasons in writing for such delay."

This means that it becomes the duty of the Execution Court to dispose of the execution proceedings at the earliest and since this Court has directed that the Execution Court must dispose of the execution proceedings within six months from the date of filing which can be extended only by recording reasons in writing for such delay, this direction is meant to be observed. This would mean that every effort should be made to dispose of the execution petition within the said time limit and the Execution Court should have reasons for not being able to dispose of the execution petition. The Execution Court is duty

bound to record reasons in writing when it is unable to dispose of the matter." (emphasis supplied)

2) The said judgment directs the executing Court to proceed in execution petitions. In the event the Court is unable to do the same, the circumstances for delay have be recorded. In the present case, it admitted that, earlier stay was granted by the Hon'ble High Court. The said stay is also stated to be vacated in view of judgment dated 28/03/2018 in *Asian Resurfacing of Road Agency Pvt. Ltd & Anr. Vs. Central Bureau of Investigation* in Criminal Appeal Nos. 1375-1376 of 2013 where it was directed that, grant of stay shall stand vacated after six months of such order if further order of stay is not produced. However, the said judgment was over ruled in *High Court Bar Association Allahabad vs. State of Uttar Pradesh* (2024 INSC 150) wherein it was inter alia held that:-

"D. CONCLUSIONS

36. Hence, with greatest respect to the Bench which decided the case, we are unable to concur with the directions issued in paragraphs 36 and 37 of the decision in the case of Asian Resurfacing. We hold that there cannot be automatic vacation of stay granted by the High Court. We do not approve the direction issued to decide all the cases in which an interim stay has been granted on a day-to-day basis within a time frame. We hold that such blanket directions cannot be issued in the exercise of the jurisdiction under Article 142 of the Constitution of India. We answer both the questions framed in paragraph 5 above in the negative." (emphasis supplied)

3) Ld. Advocate Smt. Apradh i/b Shri T.B.Jagtap for J.D. has stated that there is no order of extension of stay yet. Ld. Advocate Shri.O.N.Maske has submitted that there is no order of

stay. It is also brought to the attention of this Court that despite orders dated 01/07/2022, 11/08/2023, the J.D. has not produced order of stay. However, considering the above judgment in *High Court Bar Association Allahabad vs. State of Uttar Pradesh* (supra), it cannot be said that the stay automatically vacated.

4) However, recently the judgment in *Rahul S. Shah Vs. Jinendra Kumar Gandhi & Ors.*[(2021) 6 SCC 418] is upheld in the judgment of *Periyammal Vs. V. Rajamani* (2025 INSC 329) with directions for earlier disposal of execution application. The present case is pending since long. In these circumstances,

Order

J.D. are directed to produce the order of stay by next date, in the absence of which, necessary order shall be passed in view of directions of Hon'ble Supreme Court in *Periyammal v. V. Rajamani* (2025 INSC 329).

Date:- 21/04/2025

Place:- Tuljapur

(Smt. P.S.G. Chalkar)
2nd Jt. Civil Judge Junior Division,
Tuljapur, Dist.: Dharashiv.

CERTIFICATE

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

Name of Stenographer	---	Quadri M.F.
Court	---	2 nd Jt.CJJD & JMFC Tuljapur
Date	---	21.04.2025
Order signed by the Presiding Officer on	---	21.04.2025
Order uploaded on	---	22.04.2025