

Interim Order Below Exh. 4 in
CRA No. 39/2026

Mr Ambiye, Ld advocate for the revision applicant submits that if no ad interim stay granted on the impugned order, the opponent No. 2 shall enter the house of the applicant and possibly make any kind of nuisance of any nature. He invited my attention to some photographs and argued that the behavioral pattern of the opponent No. 2 needs to be appreciated from those photographs.

2] He submits that the Sub-Divisional Magistrate (SDM) has passed the impugned order without jurisdiction. He submits that in Clause 8 of the said order dated 15.05.2026 the SDM had suggested appeal to be filed before the District Magistrate. He submits that such an appeal was filed before the District Magistrate. However, the District Magistrate disposed of the appeal vide order dated 02.06.2026 for the reason that the jurisdiction of the District Magistrate and SDM were concurrent.

3] Mr Ambiye submits that after the appeal was disposed of by the District Magistrate, Sindhudurg, he has approached this Court under section 438 of the BNSS, in

which this Court is empowered to entertain revision application against the order passed by any judicial or executive magistrate. The SDM is an executive magistrate.

4] When I questioned about this Court's jurisdiction to entertain present revision application against an order passed by the SDM under the Disabilities Act which is a special act, Mr Ambiye submits that he shall satisfy this Court on that point at the time of final argument. His submission is taken on record. The question of jurisdiction of this Court is kept open.

5] Mr Rane, Ld PP has appeared for the opponent No. 1 in this revision application. Mr Rane submits that he shall get instructions from the concerned office and then he shall file reply/say on behalf of the concerned SDM.

6] However, Mr Ambiye submits that if in the meanwhile, the impugned order of the SDM is not stayed, the applicant may suffer irreparable loss or she may suffer any injury to her person or property. He submits that the opponent No. 2 is having her separate residence. Therefore, the House No. 534 is not the only option left to the opponent No. 2. Mr Ambiye submits that the office of the Banda Police Station consistently is calling applicant for the execution of the impugned order.

7] In view of the aforesaid peculiar circumstances, I am passing following order particularly to avoid any irreparable loss to any party including the present applicant and to avoid any untoward incident. No doubt, the following order shall is not passed on merit of the matter. It is merely passed in the interest of justice. Needless to say all points of merit are open for both sides to argue on.

8 The opponents shall have an opportunity to argue on the present interim stay application Exh 4 on the date of their appearance, if for any reason they are unable to finally argue on the main revision application.

ORDER

1. The application Exh 4 is partly allowed.
2. Ad interim stay is granted on the impugned order until the appearance of the opponent No. 2 to 4.
3. After the appearance of all opponents and after receipt of the record of the proceeding from the office of the SDM, this revision application shall be finally argued upon by both sides.
4. The stay granted as above shall not be applicable for Clauses No. 2 and 5.

Date: 05.06.2026
Place: Oros

(Dr Sudhiir M Deshpande)
Sessions Judge
Sindhudurg at Oros

All concerned to act upon digitally signed uploaded copy of this order, the printout of which can be verified from the official website of this court. In this regard attention of all concerned is invited to the authority of the Hon'ble High Court of Bombay (Bench at Aurangabad) **Shital Krushna Dhake v. Krushna Dhake**, MANU/MH0285/2018.