



Order Below Exh 13 in
CRA No. 39/2026

Today the opponent No. 2 appeared in the morning session. Her left leg was appearing to be almost wrapped in supporters. She was unable to walk properly. She is having Divyang Certificate of '83% benchmark high risk high support' for the left leg. Seeing her plight wheelchair was supplied to her from the DLSA, Sindhudurg office for her movements in the premises of the Court.

2] Brief background of the present application Exh 13 is like this. The opponent No. 2 was seeking access to the House No. 534 occupied by her mother in which the opponent No. 2 is claiming undivided share, after the demise of her father. The SDM, Sawantwadi, entertained opponent No. 2's application and granted her relief under section 7 of the Rights of Persons with Disabilities Act, 2016 by impugned order dated 15.05.2026. Due to this relief, the opponent No. 2 received the access to the House No. 534 which was resisted by the applicant i.e. her mother. Aggrieved by the said impugned order, the mother filed the present revision petition. On 05.06.2026 ex parte interim stay was granted until the appearance of the opponent No. 2. Today i.e. on 06.06.2026, the opponent No. 2 i.e. the main contesting party appeared.

3] The opponent No. 2 filed application Exh 6 for taking matter on board today since she wanted to file her objection to the stay order dated 05.06.2026 granted by this Court on the impugned order dated 15.05.2026 passed by the SDM in Diyvang Application No. 1/2026.

4] The matter was taken on board. Mr Ambiye, Ld advocate for the applicant was informed about Exh 6. He appeared in the afternoon session.

5] In the meantime, the opponent No. 2 sought free legal aid vide application Exh 7. Advocate Y R Khanolkar was directed to be appointed as her free legal aid advocate. However, since Mr Khanolkar was not available today, Advocate Mr Rode appeared on behalf of the opponent No. 2 for the time being.

6] The stay granted by this Court was only until the appearance particularly of the opponent No. 2. The next fixed date was 08.06.2026. However, due to the early appearance of the opponent No. 2, Mr Ambiye moved application Exh 13 for extension of the stay since presumably the stay granted by this Court could have been deemed to be ceased after the appearance of the opponent No. 2.

7] On this background, today the matter proceeded for hearing on application Exh 13.

8] Heard.

9] Mr Ambiyé, Ld advocate for the applicant submits that if sections 7, 9 and 96 of the Disabilities Act, 2016 are read together, a position emerges that the SDM did not have jurisdiction to pass any order in favour of the opponent No. 2 by which the opponent No. 2 was given access to enter the house No. 534 occupied by the applicant. He argued that the SDM gave access to the opponent No. 2 to stay with the applicant against whom the opponent No. 2 has many allegations and they are not at good terms with each other. He submits that on the contrary as per section 7 the SDM could have avoided the contact between the opponent No. 2 and the applicant. He submits that a civil suit was filed in July 2025 in which the opponent No. 2 is the defendant. He submits that the opponent No. 2 should contest that civil suit; however, by bypassing the jurisdiction of Civil Court she filed application before SDM. He submits that when the jurisdiction of the SDM is challenged, and the order is not satisfying the spirit of section 7 of the Disabilities Act, the impugned order should be stayed until final hearing in this revision application.

10] Per contra, Mr Rode, Ld advocate for the opponent No. 2 submits that the order passed by the SDM is not without jurisdiction. He invited my attention to the Government Resolution No. Divyang-2025 dated 13.11.2025 by which the SDM is appointed as competent authority for section 7 and for certain other sections. In that GR it is provided that complaint filed by any divyang person shall be filed before the SDM/DM. The SDM/DM is empowered to pass any order by using sections 133 to 143 of the BNSS, 2023. Mr Rode also invited my attention to another GR No. Apang-2013 dated 20.02.2019 in which there are provisions for establishments of Commissioner office. Mr Rode submitted that the revision against the order passed by the SDM shall go to the State government and not to this Court. He submits that the opponent No. 2 has filed an affidavit Exh 8 in which she has stated that the House No. 243 is not habitable for her since it has raw pathway of about 1.5 km and the opponent No. 2 has no her own vehicle. In rainy season, no vehicle can reach House No. 243. There is no potable water in House No. 243. The opponent No. 2 has no other house to stay in except the House No. 534 presently occupied by her mother, in which the opponent No. 2 has undivided share after the death of her father. The opponent No. 2 has opened wound after her surgery. On the contrary, the grocery and other vegetable shops are at 1 to 1.5 km from the House No. 534. The bust stop is in front of House No. 534.

11] The opponent No. 2 voluntarily submitted that since 22.05.2026 she has left the House No. 243 due to various reasons including its non-accessibility particularly after her leg surgery.

12] In reply, Mr Ambiye invited my attention to certain social media posts in which the opponent No. 2 has made declarations regarding the House No. 243 in village Padve by which she wants to attract tourists at the rate of Rs.200/- person per day. He submits that the description of the House No. 243 and the surrounding area is so fabulous that the opponent No. 2 cannot say that the House No. 243 is not habitable. Mr Ambiye also clarified that when there is no provision of revision or appeal in the said Act, the jurisdiction of this Court under section 482 of the BNSS is open and there is no preventive clause in the said Act.

13] Mr Rane, Ld SPP appearing for the opponent No. 1 submits that appropriate order may be passed in the interest of justice.

14] Rival contentions now fall for my consideration. The question before this Court is can stay be granted/extended sought by application Exh 13 filed by the applicant.

15] So far as the jurisdiction of this Court is concerned, initially it had become a bone of contention. However, thereafter, a notification came to be filed by the opponent No. 2 by which the Court of session in the district has been specified as a special court and all public prosecutors are notified as Special Public Prosecutor in exercise of powers conferred by section 84 of the Rights of Persons with Disabilities Act, 2016.

16] Now coming to the aspect of stay. The SDM has passed the impugned order dated 15.05.2026 by which the opponent No. 2 has been given access to the House No. 534. If the said order is stayed, the opponent No. 2 shall not have access to the House No. 534.

17] Therefore, considering the contentions of the opponent No. 2 mentioned by her in the affidavit Exh 8, this Court is of the view that if the provisions of the Disabilities Act are to be interpreted, then they will have to be interpreted in such a manner that would serve the interest of the disabled person. However, on the other hand, the applicant is also a senior citizen. She has also filed an affidavit in which she has expressed apprehension that the opponent No. 2 may pose physical or mental trouble to her and therefore, she should not be allowed to enter the House No. 534 and that the order of the SDM should be stayed.

18] Therefore, this is a situation in which on the one hand there is a divyang person (opponent No. 2) and on the other hand there is a senior citizen (applicant). The senior citizen is the mother of the divyang person. If the affidavit Exh 8 of the opponent No. 2 is to be believed, there is no easy access or egress to or from the House No. 243. It appears that comparatively House No. 534 is situated at a location which is advantageous to the opponent No. 2.

19] Right to life is a fundamental right guaranteed by the constitution . Right to life also includes right to better treatment and medicinal facilities. This is more serious when it comes to a divyang person. Therefore, in my opinion, in case of any emergency of any kind the opponent No. 2 should have access to the household and other transportation facilities. The plight of the opponent No. 2 is worsened since only last year her husband had died and she is alone.

20] In the affidavit Exh 8, the opponent has categorically deposed that she will not give any kind of trouble or danger or expense to the applicant if she is allowed to enter and stay in House No. 534. On affidavit, she has stated that at present a friend of hers has given her shelter since last three days in village Banda.

21] Considering the situation comparatively, my prima facie opinion is that it is more necessary to give access

to the opponent No. 2 to the House No. 534 than to prevent her by staying the order.

22] This Court is of the prima facie view that denying access to House No.534 at this stage may expose Opponent No.2, a person with disability, to greater hardship and vulnerability, whereas permitting her access, subject to strict observance of peaceful conduct and non-interference with the applicant's day-to-day life, would cause comparatively lesser prejudice. The applicant-mother's safety and dignity can be protected by making it clear that Opponent No.2 shall neither obstruct nor disturb the applicant in any manner and that any breach of such condition would entitle the applicant to seek appropriate relief. Therefore, balancing the comparative hardship, convenience and welfare of both parties, this Court finds that continuation of access to House No.534 would best serve the interests of justice pending final adjudication of the legal and factual disputes between the parties.

23] It is made clear that the present order is passed on prima facie comparative merit and this is not the final opinion of this Court since the main revision application is pending for hearing. All contentions of the parties are kept open and all parties shall be at liberty to argue on merits of all factual and legal positions at the time of arguments on the main revision application including various points of jurisdictions.

24] With the above observations, I am passing the following order.

ORDER

1. Application Exh 13 is rejected.
2. It is further directed that Opponent No.2 shall strictly abide by the undertaking given on affidavit before this Court and shall not cause any physical, mental, emotional or financial harassment or inconvenience to the applicant. Any breach of the said undertaking, if prima facie established, shall entitle the applicant to seek immediate interim relief, including stay, modification or suspension of the operation of the impugned order dated 15.05.2026, and the same shall be considered on its own merits.
3. The main application is kept for final arguments on the date suggested by both the parties.
4. Application Exh 13 is disposed of.

Date: 06.06.2026
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.