

**Order below Exh.134**  
(Passed on 05.01.2022.)

Plaintiffs have filed present application to stay the execution of the decree passed in Special Civil Suit No.63/1999. It is the contention of the plaintiffs that, they have filed the present suit for partition and separate possession. This court has also granted temporary injunction application filed by the plaintiffs. It is further contention of the plaintiffs that, defendant No.3 has filed special civil suit No.63/1999 in respect of the suit property and he has obtained decree by playing fraud. As per the decree passed in special civil suit No.63/1999 precept is sent to the District Collector and Tahasildar Pandharpur has effected false partition for three times of the suit property. Tahasildar has also issued a notice dated 16.12.2021 and in that notice he has mentioned that, he will handover the possession of the shares of the parties as on 05.01.2022. The act of Tahasildar will affect the trial of present suit. Therefore, plaintiffs prayed to grant stay to the operation and execution of the decree bearing Special Darkhast No.05/2013.

2. Defendant No.1 and 5 by filing their say below Exh.138 to the present application and strongly opposed to the application. It is submitted by the defendants that contents of application are not true and correct. The suit property is ancestral property of father of defendant No.1 and 3 and husband of defendant No.2. After the death father of defendant namely Sivdas Gaikwad defendants got share in the suit property and defendant No.3 filed special civil suit No.63/1999 before the Civil Judge Senior Division Pandharpur. The plaintiff no.1 and 2 are also parties to that suit. As per the decree passed in Special Civil Suit No.63/1999 defendants got share in the suit property. Till the date there is no any stay to the decree passed in special civil suit No.63/1999. Therefore, the present application filed by the plaintiff is not tenable. Hence, they are prayed to reject the application.

3. Considering the rival contention of both the sides, so also, I have gone through the record of case in hand and documents produced on record, from it appears that, Hon'ble Civil Judge Senior Division has passed decree in Special Civil Suit No.63/1999 and declared the share of the parties in respect of the suit property. In that suit the present plaintiffs are also party defendants. The said decree is passed on 26.02.2009. As per the Section 47 of the Code of Civil Procedure question to be determined by the Court executing decree. All questions arising between the parties to the suit in which the decree was passed or their representatives, and relating to the execution, discharged or satisfaction of the decree, shall be determined by the Court executing the decree and not by a separate suit. As per the Section 47 the plaintiffs should approached to the executing court who has passed the decree in Special Civil Suit No.63/1999. So also, the present plaintiffs are parties to the Special Civil Suit No.63/1999 and they having knowledge about the decree. Therefore, there is no any circumstances arises before this Court to stay the execution of decree passed in Special Civil Suit No.63/1999. Hence, following order.

**ORDER**

Application stands rejected.

Date : 05.01.2022.

[A. P. Karad.]  
Jt. C.J.J.D. Pandharpur.

**Certificate**

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

Name of Stenographer	:- Rajiv M. Gogi.
Court	:-Jt.Civil Judge (J.D.) Pandharpur
Date	:- 05.01.2022
signed by	
the presiding officer on.	:- 05.01.2022