

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2417 OF 2014**

Swapnil

M/s. Bhakti Developers, Through Partner,
Shri. Shamji Bhavan Aarethiya ... Petitioner
Vs.
Vijay Gaikwad. ... Respondent

WITH

WRIT PETITION NO. 3613 OF 2017

Dilip Mahadu Pote and Ors. ... Petitioners
Vs.
Bhaskar Tukaram Pote. ... Respondent

WITH

WRIT PETITION NO. 11573 OF 2019

Jaydevkumar Bharatsinh
Parmar. ... Petitioner
Vs.
Abhaysing Bhagwansinh
Parmar Decd Through Lrs And
Ors. ... Respondents

Mr. Drupad S. Patil for the petitioner in WP/2417/2014.

Mr. Prathmesh T. Bhanuwanshi i/b. Mr. Sanjay P. shinde for
the petitioner in WP/3613/2017.

Mr. Vatsal Gosalia a/w. Mr. Chandresh Rao for the
respondent in WP/3613/2017.

Mr. Atharva S. Jagtap i/b. Ms. Jyoti Chavan for the petitioner
in WP/11573/2019.

Ms. Chitra Darekar i/b. Mr. Girish Agrawal for respondent
nos. 1 to 5 in WP/11573/2019.

CORAM : GAURI GODSE, J.

DATE : 6th MAY 2026

ORDER :

1. In all these petitions, the suits have remained pending due to the incorrect entries made in the roznama and CIS, that, the suit is stayed by the high court. Writ Petition No. 3613 of 2017 is disposed of on 4th March 2026; however, the learned Principal District Judge, Nashik, was directed to find out the reason for listing the suit in the category of “stayed” and submit a report. Even in Writ Petition 2417 of 2014, a similar report was called for from the learned Principal District Judge, Raigad, regarding a similar incorrect entry. Even in Writ Petition No. 11573 of 2019, the trial court proceedings remained pending due to an incorrect entry in CIS. Hence, all three petitions were listed together.

WRIT PETITION NO. 2417 OF 2014:

2. Pursuant to the order dated 10th April 2026 passed in Writ Petition No. 2417 of 2014, a report dated 4th May 2026 by the learned Principal District Judge, Raigad, Alibag, is placed on record. From this report and the earlier report, it appears that without verifying the record, the entry in the

Roznama and CIS was made that the suit has been stayed by the High Court. The report states that, based on oral submissions, the entry was made that “Stayed by Hon’ble High Court”. The wrong entry was made on 16th December 2022 and continued till this court called for a report. The concerned learned Judicial Officer never bothered to verify whether any stay writ had been received, and, unfortunately, the suit remained unattended for more than three years.

3. In Writ Petition No. 2417 of 2014, the impugned order rejected the petitioner's application for impleadment in the suit. The writ petition has remained pending for service upon the respondents. There are various office remarks which show that steps have not been taken to effect service.

4. Learned counsel for the petitioners in Writ Petition No. 2417 of 2014 submits that despite intimating the petitioners, he has not received the required information for proceeding with the petition. He thus has no further instructions to proceed with the petition.

5. Hence, the Writ Petition No. 2417 of 2014 is dismissed for non-prosecution.

WRIT PETITION NO. 3613 OF 2017:

6. In Writ Petition No. 3613 of 2017, as directed vide Order 4th March 2026, a report dated 17th April 2026 prepared by the learned Principal District Judge, Nashik, is submitted. The report states that due to a lack of verification and in the absence of a dedicated CIS category for 'status quo' order, an incorrect entry of "Stayed by Hon'ble High Court" was made in the CIS.

7. I have perused the second part of the petition. The stay writ refers to the order passed by this court on 31st March 2017 directing the parties to maintain status quo. The said writ refers to the prayer clause which is for directing the defendants to maintain status quo in respect of the suit property. The order dated 27th March 2017 passed by this court is also enclosed with the writ issued to the trial court. The order passed by this court directs the parties to maintain status quo.

8. This court has never passed any order staying the further proceedings of the suit. By no stretch of imagination the order directing the parties to maintain status quo can be interpreted to mean that the further proceedings of the suit is

stayed. Even the writ issued to the trial court does not indicate that the suit is stayed.

9. It is unfortunate and shocking that in view of the order of status quo passed by this court, the trial court has not proceeded further with the suit since 2018. Unfortunately even the parties and their Advocates have never bothered to take any steps to proceed with the suit.

10. The Writ Petition No. 3613 of 2017 is disposed of as infructuous by Order dated 4th March 2026.

WRIT PETITION NO. 11573 OF 2019:

11. So far as the Writ Petition No. 11573 of 2019 is concerned, the proceedings in the trial court in this writ petition have also remained stayed due to incorrect entries in the CIS. In this writ petition, a notice was issued on 24th February 2020, and the trial court was requested to defer the hearing of the probate proceedings for six weeks. Thereafter, the petition has remained pending either on the ground of adjournment as requested by the parties or due to paucity of time. There were no further directions issued by this Court to adjourn the proceedings in the trial court. The proceedings in

this writ petition have also remained pending due to an incorrect entry in the CIS.

12. This petition is filed by the original applicant in the probate proceedings to challenge the trial court's order rejecting his application to frame additional issues and allowing the respondent's application to recast the issues. The impugned order is purely an interlocutory order.

13. Normally, the court should be slow in interfering with such an interlocutory order. In view of Section 105 of the Code of Civil Procedure, 1908 ("**CPC**") it will always be open for the petitioner to challenge the impugned order in an appeal, in the event the final decree is adverse to the petitioner.

14. Hence, this is not a case in which the impugned order should be interfered with in exercise of the discretionary jurisdiction under Article 227 of the Constitution of India.

15. Subject to the aforesaid observations, and reserving the right under Section 105 of the CPC, the Writ Petition No. 11573 of 2019 is dismissed.

Common Directions In All Three Writ Petitions:

16. It is clarified that the reports called for from the concerned Principal District Judges should not be construed as show-cause notices, as they are not a reflection on the capability of the staff or the concerned judicial officers. It was out of concern that this court had called for reports as part of a fact-finding process. The purpose of calling for the reports was only to ensure early disposal of the suits and to prevent incorrect entries in the Roznama and CIS.

17. In view of the incorrect entries made in the CIS in the trial courts, stating that the suit is stayed by the High Court, the proceedings unnecessarily remain pending. Hence, it is necessary to verify the record before making any entry in the Roznama and CIS.

18. When an order of stay is brought to the notice of the Trial Judge, by making oral submissions or a written application/pursis, appropriate precautions must be taken to ensure that the directions are correctly followed, by giving the parties an opportunity to produce a copy of the order on record. When possible, efforts can be made to check the status online, as the data is now available on the official

website. When interim relief is granted up to a particular date, and it is found that it is not extended for any reason, the concerned judicial officers are required to verify the status of the interim relief by issuing necessary directions to the parties before continuing the status in the Roznama and on the CIS. The concerned Trial Judge must ensure that correct entries are made in the Roznama and the CIS and that the litigation does not unnecessarily remain pending in the trial court.

19. It is the duty of the concerned Trial Judge before whom the suit or any original proceeding is listed, to verify the status of any proceedings, if any, filed before the District Court or High Court and the status of the interim relief, if any, before making entries in the Roznama and in the CIS. The concerned Trial Judge must ensure that the trial proceedings do not unnecessarily remain pending only on the ground of pendency of any proceedings in the District Court or High Court. Hence, the Trial Judge must take all precautions to ensure that the suit/original proceeding is listed on the causelist at the correct stage and that accurate entries are made in the Roznama and the CIS to ensure timely disposal

of the suit/original proceedings.

20. These directions are issued only to ensure the timely disposal of the suit/original proceedings.

21. A copy of this Order shall be forwarded to the learned Registrar (Judicial-I) at the time of uploading, for taking necessary steps to forward the copy of this order to all the Trial Court Judges.

[GAURI GODSE, J.]