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Civil Appeal No. 274/2017

Hiralal Narayan Ghule
Vs.
Mansoor Mohammed Momin

Order below Exh. 3

This is an application to stay execution of the impugned decree. I have perused the application and say filed by the Respondent No.1.

[2] Respondent No. 1 had filed Special Civil Suit No. 848/2011 for Specific Performance of Contract. The Ld. Trial Court by its Judgment and Decree dated 23.12.2016 decreed the suit and thereby order that the appellant (defendant No. 1) shall pay earnest amount of Rs. 20,00,000/- with interest @ 3% per annum. Being aggrieved by the impugned Judgment and Decree, Appellant (Orig.Deft.No.1) preferred this appeal.

[3] In this appeal, the Appellant has filed application (Exh.3) to stay execution of a impugned decree. It is submitted by the Appellant that the Ld. Trial Court committed grave error in passing the impugned decree. The appellant has good prima-facie case in his favour. Therefore, it has become necessary to stay execution of the impugned decree.

[4] Respondent No. 1 has filed his reply (Exh.15). It is submitted that, the impugned decree is properly passed by the Ld. Trial Court. Therefore, it is not necessary to stay execution of the impugned decree.

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[5] I have heard both the sides and perused the material placed on the record.

[6] It is not in dispute that the appellant has right to file appeal against the impugned decree. He has filed the appeal within time. It is acceptable that it will take some time to dispose of this appeal on merits. In the circumstances if execution of the impugned decree is not stayed it will cause prejudice to the appellant. Moreover, in such circumstances possibility of multiplicity of litigation can not be ruled out. On the contrary if the impugned decree is stayed no harm of prejudice will be caused to the respondents because ultimately he will get interest on the decreed amount if the appellant failed in this appeal. If decree is not stayed the very purpose of filing this appeal would be frustrated. Hence, it would be just and proper to stay execution of the decree. I, therefore, pass the following order :-

ORDER

- 1] Execution of the Judgment and Decree dated 20.12.2016 passed in the matter of Special Civil Suit No. 848/2011 is hereby stayed till the decision of this appeal.

Sd/-

(**S. B. Bahalkar**)
District Judge – 11,
Pune

Date: 12/12/2017.

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CERTIFICATE

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

Name of Steno	:	S.N.Kale
Name of Court	:	S. B. Bahalkar, District Judge - 9, Pune
Order delivered on	:	12.12.2017
Order signed on	:	12.12.2017
Order uploaded on	:	14.12.2017