
ORDER BELOW EXH.4 in R.C.A. NO.15/2023

1. The appellants have preferred the captioned appeal against the Judgment and Order dated 30.09.2022 passed in the Regular Civil Suit No.86/2008 (Original R.C.S. No.25/2006) by the Ld. Trial Court partly allowing the suit of the plaintiff. The appellants have preferred present application to stay the impugned judgment and decree dated 30.09.2022 passed by the Ld. Trial Court in Regular Civil Suit No.86/2008.
2. Ld. Adv. for the appellants has further submitted that, the hearing and disposal of this Appeal is likely to take time. Under the circumstances, it is submitted to stay the impugned judgment and decree passed in Regular Civil Suit No.86/2008 till the disposal of this appeal.
3. Respondent has been served with the notice and appeared through Ld. Adv. Mr. R. C. Pandya and preferred written statement vide Exh.14 against this application. Ld. Adv. for the respondent has further contended that earlier present respondent (original plaintiff) has preferred Regular Civil Suit No.25/2006, which has been allowed by Ld. Trial Court on 13.06.2011. Thereafter, present appellants (original defendants) have preferred Regular Civil Appeal No.03/2012, thereafter by order dated 23.04.2012 the Hon'ble District Court has remanded

back the Regular Civil Suit No.25/2006 and thereafter the same suit is renumbered as Regular Civil Suit No.86/2008 and the said suit has also been partly allowed by Ld. Trial Court vide Judgment dated 30.09.2022. Ld. Adv. for the respondent has further contended that after considering all the documentary evidence as well as oral evidence Ld. Trial Court has partly allowed the suit of the plaintiff (present respondent) and therefore this application is not sustainable and deserves to be dismissed.

4. Ld. Adv. for the appellants has orally argued out and reiterated the same set of facts as stated in the application. Lastly he has contended that there is prima facie case in favour of the appellants and there are strong chances that the appellants may succeed and therefore he has prayed to stay the judgment and award passed by the Ld. Trial Court dated 30.09.2022 in Regular Civil Suit No.86/2008.
5. Having bestowed thoughtful consideration to the facts of the matter, it appears that the appellants have prima-facie satisfied upto some extent the legal points of adjudication that if the stay as prayed for in this application will not be granted then they shall have to sustain substantial loss. Here, the Ld. Adv. for the appellants has also submitted that the appellants undertake that they shall abide by any conditions upon which the stay may be granted. Therefore, till the final determination of the dispute and adjudication of appeal and to protect the rights of the contesting

parties it would be imperative to pass an order of stay of operation and execution of the judgment and decree till further order. Therefore, it would be just to pass an order of stay of operation and execution of the judgment and decree. Hence, following order is passed in the interest of larger justice.

: O R D E R :

- i. The execution and operation of Judgment and Award passed by the Ld. Trial Court on 30.09.2022 in Regular Civil Suit No.86/2008 is suspended till the final disposal of this Appeal with following condition:
 - The parties are hereby directed to maintain status-quo till final disposal of this appeal with direction to expedite this appeal as early as possible.
- ii. The cost of this application to be cause in the appeal.
- iii. Application stands disposed of accordingly.

Pronounced in the open Court today on 28th day of November, 2024.

Dt.28/11/2024
Place : Dahod

(Harshad Shamrao Khutwad)
3rd Additional District Judge,
Dahod - GJ 00724.