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**IN THE COURT OF PRINCIPAL DISTRICT JUDGE
(MR.R.T.PANCHAL), NARMADA, AT - RAJPIPLA**

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**ORDER BELOW EXH.5 (Stay Application) IN REGULAR
CIVIL APPEAL NO.7 OF 2025**

- [1] The present application Exh.5 has been filed by present appellants (original defendants) for injunction in this appeal to stay execution of Judgment & Decree dated 10.12.2024 passed in Summary Suit No.27/2024 by the learned Principal Civil Court, Garudeshwar, till final disposal of the present appeal.
- [2] Ld. Advocate for the appellants has filed arguments vide Exh. 15 in support their stay application in which it is declared to consider the facts and grounds stated in the interim injunction application Exh.5 as part and parcel of his submissions for the present interim injunction application Exh.5. He has further argued that the original appellants has filed the present appeal against the Judgment & Decree dated 10.12.2024 passed in Summary Suit No.27/2024 by the learned Principal Civil Court, Garudeshwar and there are considerable substances prima-facie to allow the present appeal. It is further submitted that if the impugned Judgment & Decree is executed at this juncture, then the appellants will have severe financial loss and irreparable loss and the present appeal will become infructuous. It is further submitted that if the execution of

Judgment & Decree is stayed at this stage, then there will not be any harm to the respondent, whereas there will be irreparable loss to the appellants in terms of money and therefore the balance of convenience is in favour of the appellants. Lastly, it is prayed to stay the Judgment & Decree dated 10.12.2024 passed in Summary Suit No.24/2024 till final disposal of the present appeal.

- [3] Ld. Advocate Mr. J.K. Pandya for the respondent has filed reply at Exh.11 objecting the present application. It is also submitted that there is no prima-facie case of the appellants and there is no question of any irreparable loss in terms of money and the appellants can recover the decretal amount in case if the appeal is allowed and therefore the present interim injunction application is required to be rejected. It is further submitted that the respondent (original plaintiff) is a statutory body incorporated under the provisions of law and it has filed the Summary Suit No.27/2024 for recovery of outstanding amount from the original appellants and as per the Judgment & Decree dated 10.12.2024 passed by the learned Trial Court, the said due amount is pending to be recovered and therefore there will be irreparable loss in terms of money if the present interim injunction application is stayed at this stage. It is further submitted that the balance of convenience is in favour of the respondent. Lastly, it is prayed to dismiss the present injunction application Exh.5 along with cost in the interest of justice.

- [4] The R&P of the learned Trial Court for Summary Suit No.27/2024 was called for and considered.
- [3] Ld. Advocate Mr. J.K. Pandya for the respondent has filed a purshis **Exh.16** declaring that the reply filed vide **Exh. 11** be considered as arguments in the matter.
- [5] This Court has gone through the present application, Judgment & Decree of the learned Trial Court, reply **Exh.11** filed by the respondent as well as submissions made by learned advocates for the parties. Considering the overall facts and circumstances, this Court is having prima-facie considered opinion that there is prima-facie case and balance of convenience in favour of the appellants at this stage. When the prima-facie case and balance of convenience are in favour of the appellants at this stage, then there may be irreparable loss. Further, it also appears that if the execution of impugned Judgment & Decree is not stayed at this juncture and respondent execute the decree in execution proceeding in the Civil Court against the present appellants then in such circumstances, the present appeal filed by the appellants will become infructuous. In such circumstances, there may be irreparable loss to the appellants about the right of the appeal. So far as the contention raised by the respondent regarding non-joinder of necessary parties is concerned, the same may be decided at the final decision of the appeal. In view of the above discussion, I come to the conclusion that the present

injunction application is required to be partly allowed with condition and the impugned Judgment & Decree of the learned Trial Court is required to be stayed at this stage only in connection with the liability of decretal amount of the present appellants and therefore following order is passed accordingly.

ORDER

- [1] The appellants's present interim injunction application Exh.5 is hereby partly allowed.
- [2] The execution of Judgment & Decree dated 10.12.2024 passed in Summary Suit No.27/2024 by the learned Principal Civil Judge, Garudeshwar, is hereby stayed for present appellants in connection with the liability of decretal amount of the present appellants, till final disposal of the present appeal on following conditions.
- (a) The appellants is hereby directed to deposit 30% of decretal amount in the District Court within one month from the date of this order.
- (b) If the appellants fails to deposit 30% of decretal amount within one month, then this order will be treated as cancelled.
- [3] The cost should follow the final order of the appeal.
- Signed and pronounced in the Court today on 14th day of August, 2025.

Date: 14/08/2025
Place: Rajpipla

(Rameshkumar Thakorbbhai Panchal)
(GJ00413)
Principal District Judge,
Narmada, At - Rajpipla