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**IN THE COURT OF PRINCIPAL DISTRICT JUDGE
(MR.P.C.JOSHI), AT PORBANDAR.**

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**ORDER BELOW EXH.5 IN REGULAR CIVIL APPEAL
NO.24 OF 2024**

- [1] The appellants have preferred present application Exh.5 under the provisions of Order-41, Rule-5 of the Civil Procedure Code for stay order against execution of Judgment & Decree dated 18.04.2024 passed in Regular Civil Suit Nos.13/2012 & 16/2012 by the learned Principal Civil Ranavav, till final disposal of the present appeal.
- [2] Learned Advocate Mr. N. D. Kakkad for the appellants has mainly relied on the contentions raised in the present application and argued that the appellants have filed present appeal against Judgment & Decree dated 18.04.2024 passed in Regular Civil Suit Nos.13/2012 & 16/2012 by the learned Principal Civil Court, Ranavav and there are considerable substances prima-facie to allow the present appeal. It is further submitted that, if the respondents will obtain possession of the suit property by way of execution proceeding in the Civil Court against the present appellants, then under such circumstances, the appellants' right of appeal will be frustrated and the present appeal filed by the appellants

will become infructuous. Lastly, it is prayed to stay the Judgment & Decree dated 18.04.2024 passed in Regular Civil Suit Nos.13/2012 & 16/2012 by the learned Principal Civil Court Ranavav, till final disposal of the present appeal.

- [3] Ld. Advocate Mr. S. J. Joshi appeared on behalf of the respondents and submitted that the present application filed by the appellants is not legal, proper and maintainable and the same is required to be dismissed. It is further submitted that the learned Trial Court has passed legal and proper Judgment & Decree after appreciating the documentary as well as oral evidences on record and hence, it does not require any interference. The appellants are not entitled for any relief prayed for in the present application. If the present application will be granted, then right of the respondents over the suit property will be frustrated. Lastly, it is prayed to reject the present application Exh.5 in the interest of justice.
- [4] This Court has gone through the present application, Judgment & Decree of the learned Trial Court as well as submissions made by learned advocates for the parties. Considering the reasons given by the learned Trial Court in the judgment dated 18.04.2024 passed in R.C.S. Nos.13/2012 & 16/2012 as well as contentions made by the appellants in the present application, this Court has considered opinion that there are considerable

substances prima-facie to allow the present application. If the present application will not be allowed at this stage, then the right of appeal of appellants will be frustrated. Therefore, this Court comes to the conclusion that the present application Exh.5 is required to be allowed under the provisions of Order-41, Rule-5 of the Civil Procedure Code and therefore following order is passed accordingly.

ORDER

- [1] The appellants' present application Exh.5 is hereby allowed.
- [2] The execution of Judgment & Decree dated 18.04.2024 passed in Regular Civil Suit Nos.13/2012 & 16/2012 by the learned Principal Civil Court Ranavav, is hereby stayed till final disposal of the present appeal.
- [3] No order as to cost.

Signed and pronounced in the open Court today on 27th day of August, 2024.

Date: 27/08/2024
Place: Porbandar

(Pinakin Chandrakant Joshi)
(GJ00334)
Principal District Judge,
Porbandar.