

ORDER

Heard the learned counsel for appellant on I.A.No.1 and perused the materials on record.

Learned counsel for appellant/defendant has submitted that, the appellant has preferred this appeal against the judgment and decree passed by trial court and the plaintiff had filed suit bearing O.S.No.242/2021 on the file of Learned Addl. Civil Judge and JMFC, Channarayapatna which has been decreed by trial court without considering the defence taken by the defendant/appellant. Appellant has also submitted that, now by taking undue advantage of decree which is passed in favour of plaintiff, she tried to dispossess the appellant and plaintiff under the guise of judgment and decree is trying to interfere with the possession and enjoyment of the suit property and if judgment and decree is not stayed, the appellant will be dispossessed by the plaintiff/respondent by which appellant will be put to heavy and irreparable loss. Therefore, he prayed to stay the execution and operation of judgment and decree of trial court till the disposal of the appeal.

On perusal of the materials on record, the plaintiff had filed suit in O.S.No.242 /2021 on the file of learned Addl. Civil Judge and JMFC, Channarayapatna seeking the relief of partition which has been decreed. The trial court without giving opportunity to defendant to file written statement has passed the decree. If the judgment and decree of the trial

court is not stayed until further order, very purpose of preferring of this appeal will be defeated and there are chances of the dispossession of the appellant by which he will be put to hardship. So, I feel it is just and proper to stay the execution and operation of judgment and decree of trial court until further orders. So, I proceed to pass the following;

ORDER

Application which is filed under Order 41 Rule 5 of CPC is hereby partly allowed.

The judgment and decree of trial court in in O.S.No.242/2021 dated 17.09.2024 passed by Learned Addl. Civil Judge and JMFC, Channarayapatna is stayed until further orders.

Prl.Senior Civil Judge & J.M.F.C.,
Channarayapatna.