

ORDER ON I.A.NO.I FILED UNDER
ORDER 41 RULE 5(2) OF C.P.C.

This application is filed by appellants/applicant seeking order to stay the operation and execution of judgment and decree dated 31.07.2025 passed by the Court of I Addl. Civil Judge and JMFC, KGF in O.S.No.137/2019 till disposal of this appeal.

2. In the affidavit filed in support of the application, the appellants have averred that they have filed this appeal against the judgment and decree passed by the trial court in favour of the respondent No.1 thereby declaring him to be owner and possessor of the suit property and thereby restraining them and respondents No.2 to 13 from causing unlawful interference into the possession of the respondent No.1 over the suit property. However, the respondent No.1 is making hurried attempts to execute the said decree and if he succeeds, the very purpose of filing this appeal would be defeated. Hence, the judgment and decree passed by the trial court are liable to be stayed till disposal of this appeal or else, the appellants would be put to irreparable loss. Therefore, the appellants have prayed to allow the application.

3. The respondent No.1 has filed his objections to the application denying the averments of the application and contending that the appellants have not made out reasonable ground for stay of the impugned judgment and decree and that there is no executable order passed by the

trial court. Therefore, the respondent No.1 has prayed to dismiss the application.

4. I have heard the arguments and perused the record.

5. On perusal of the material, it discloses that in this appeal, the appellants have challenged the judgment and decree passed by the Court of I Addl. Civil Judge and JMFC, KGF in O.S.No.137/2019 which was passed thereby granting declaration of title to the suit property and perpetual injunction in favour of the respondent No.1. Thus, the decree passed by the trial court is not an executable decree and as such, the question of staying the same by this court does not arise. It is only when, the appellants or respondents No.2 to 13 violate the said decree, the respondent No.1 would be forced to execute the decree for the violation. Hence, the appellants can refrain themselves from committing such violation. Admittedly, as of now, the decree holder has not filed any execution case and therefore, it is not necessary to stay the execution and operation of impugned judgment and decree. Hence, I proceed to pass the following ;

ORDER

I.A.No.I filed by appellants under Order XLI Rule 5(2)(a) of CPC is hereby dismissed.

Call for TCR on 11.12.2025.

Sd/-

I Addl. Senior Civil Judge & JMFC,
K.G.F.

