

ORDERS ON IA No.2

The Appellant has filed this application under order 41 Rule 5 and under section 151 of CPC to stay the operation, execution and effect of the order dated 02.02.2026 passed by the trial court in Ex. No.20/2009.

2. In the affidavit filed to the present application, it is stated that the present appeal is filed challenging the correctness and validity of the order dated 02.02.2026 passed by the learned I Addl. Civil Judge, Maddur in Ex. No. 20/2009. The order was on the application filed by the respondent No.1 herein U/O 21 rules 96 to 98 of CPC. The impugned order is opposed to law and not based on legal principles. The application filed by the respondent No.1 was not maintainable. It is wrongly observed by the trial court that the Appellant has not let in any evidence. But the Appellant let evidence in support of this case. The order is prima facie wrong and without jurisdiction. The trial court has ignored the objections filed by the Appellant and passed the impugned order. The trial court is proceeding with the matter by wrongly making the respondent No.1 as a party. It has wrongly recorded a finding that the decree is wrong. Therefore, it is just and necessary to stay the operation and execution of the of the impugned order. If the order is not stayed, the Appellant will be put to injustice and prejudice. The Appellant has got chances of succeeding in the appeal. Therefore, the present application is filed.

3. The respondent No.1 has filed objections to the present application and contended that filing of an appeal does not operate as an automatic stay of the order appealed against. The appellant has approached this Court without satisfying the statutory requirements contemplated under sub-rule (3) of Rule 5 of order 41 of CPC. No substantial question of law or serious infirmity is pointed out in the affidavit filed to the application. The appellant has not established prima facie case warranting grant of interim order as sought for. The respondents are entitled to enjoy the benefits of the order passed in their favour by the trial court. The respondents are litigating for years together. Grant of stay would cause further hardship and delay. There is no executable direction by the trial court warranting intervention of this court. There is no immediate coercive step or executable mandate against the appellant. The Appellant has not approached this Court with clean hands. The Appellant has not demonstrated substantial loss to be caused to him if the stay is not granted. This application is filed only to cause delay in progress of proceedings. Hence, it is prayed to reject the application.

4. Heard and perused.

5. The point that arises for my consideration is as follows ;

Whether the Appellant has made out sufficient grounds to stay the operation, execution and effect of the order passed by the trial court dated 02.02.2026 in Ex. No.20/2009.?

6. My answer to the above point is in the **Negative** for the following;

REASONS

7. The present appeal is filed challenging the order passed by the trial court dated 02.02.2026 in Ex. No.20/2009 on the application filed by objector under order 21 rule 96 to 98 and 101 of CPC. The trial court through its order allowed the application filed by the objector under order 21 rule 96 to 98 and 101 R/W/S 151 of CPC. As per the provisions of order 41 rule 5 (3) of CPC the Appellant has to show before this court that substantial loss will result to him if stay is not granted. But in the affidavit filed to the application no details as to in what way

substantial loss will be caused to the Appellant if stay is not granted. In the affidavit filed to the application it is simply stated that the order passed by the trial court is opposed to law and against to legal principles. In the affidavit filed to the present application, the Appellant has stated the if the operation of order passed by the trial court dated 02.02.2026 in Ex. No.20/2009 is not stayed, it will caused injustice and prejudice to him. But it is not specifically stated as to how and what type of injustice or prejudice will caused to the Appellant. Moreover, no reasons are given by the Appellant as to how the order passed by the trial court causes hardship to him if interim order of stay is not granted. The entire reasons stated in the affidavit filed to the present application are grounds of appeal, but not sufficient grounds to grant stay. The reasons do not satisfy the mandate of law to grant interim order of stay. Therefore, this court is of the considered view that the Appellant has failed to show sufficient cause to grant stay against the operation of order passed by the trial court. Accordingly, the above point is answered in the **Negative**. Hence, this court proceeds to pass the following:

ORDER

IA No.2 filed under
Order 41 Rule 5 R/W/S
151 of CPC is hereby
rejected.

Issue notice to
respondent No.2 to 4
R/by 27.03.2026

**I Addl. Senior Civil Judge & JMFC.,
Maddur.**