

Order on IA No.I

1. The appellant has filed the application under Order 41 Rule 5 of CPC wherein prayed to stay the operation of the judgment and decree passed in O.S.no.461/2014 dated 17.10.2022 by the Ld. Prl. Civil Judge & JMFC, HD Kote.

2. In support of the application, the appellants have filed affidavit, wherein assigned various reasons to allow the application.

3. Heard and perused.

4. On perusal of the materials available on record, it reveals that, there is no caveat. Further it is very relevant to note that respondents/plaintiffs filed a suit against the defendants seeking for a relief declaration of ownership and permanent injunction. After full pledge trial, the trial court decreed the suit, declaring the respondents are absolute owner suit property and restraining the appellants to interfere with the possession of the respondents over the suit property forthwith. As the Trial Court has failed to observe that the boundaries of the suit property is incorrect and the plaintiffs in the guise of the present suit is trying to grab the land of the defendants and as the counsel for appellants/defendants has come up with the appeal challenging the judgment and decree by mentioning several grounds under the appeal and more so the valuable rights of appellants are involved, under these circumstances in view of the submission, I carefully peruse the materials available on record. On perusal of the materials, it is just and necessary to stay the operation and execution of the trial court order as it is a executable decree. Hence, I proceed to pass the following;

ORDER

Issue an order of interim stay, staying the operation of the judgment and decree passed in

O.S.no.461/2014, dated 17.10.2022 till next date of hearing.

Issue notice on IA No.I and on main appeal to the respondents.

Call on for appearance of respondents by 27.01.2023.

(Dictated to the typist on computer, typed by him, revised, corrected and then pronounced by me in the open Court on this the 6th day of January, 2023.)

Senior Civil Judge & JMFC,
H.D Kote