

Order on IA No.I

1. The appellant has filed the application U/O 41 Rule 5 of CPC wherein prayed to stay the operation of the judgment and decree passed in O.S.No.274/2008 dated 11.04.2023 by the Ld. Prl. Civil Judge & JMFC, HD Kote.

2. In support of the application, the appellant has 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 a relief of partition and separate possession. After fullfledged trial, the trial court decreed the suit in part and allotted 1/8th each share in item No.4 of suit schedule property and item No.1 and 5 of written statement schedule property in favour of the plaintiff, the defendant No.2 to 6, 7(a) and 8. The suit of the plaintiff in respect of other schedule properties is dismissed. The defendant No.3 being agrived by the judgment and decree has come up before this Appellate Court by challenging the judgment and decree on several grounds urged in the Memorandum of Appeal. This court has carefully perused all the materials available on record and also the judgment and decree passed by the learned trial court. The plaintiff had filed suit for partition and the defendant No.3 filed his written statement with counter claim. On perusal of the materialson record, in order to safeguard the intrest of the appellant and in the intrest of justice, it is just and necessary to stay the operation and execution of the judgment and decree passed by the learned trial court since

it is the executable decree by filling FDP. Hence this court pass the following;

O R D E R

Issue an order of interim stay by staying the operation of the judgment and decree passed in O.S.No.274/2008, dated 11.04.2023 till next date of hearing except in respect of item No.3 of suit schedule property.

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

Await notice to respondents.

Call on: 22.11.2023

(Dictated to the Stenographer, transcribed by him on computer, revised, corrected and then pronounced by me in the open Court on this the 26th day of October 2023)

**(Sandesh Prabhu. B)
Senior Civil Judge & J.M.F.C
H.D.Kote**