

ORDERS

Appellant has filed I.A No.I U/O 41 Rule 05 R/w Section 151 of CPC seeking to stay the execution and operation of judgment and decree passed in OS No.12/2022 passed by Civil Judge and JMFC, Haliyal dated 30-07-2024.

2. Appellant has contended that, the respondent i.e., plaintiff has filed suit for partition and separate possession before the trial court and the same is decreed. The trial court has passed preliminary decree in the suit. As per the preliminary decree there is every possibility of filing final decree proceedings by the respondent. The appellant has got every chance of success in this appeal. Hence it is just and necessary to stay execution of decree till disposal of the appeal. In case the decree is not stayed, there is every possibility for multiplicity of proceedings. Hence, prays to allow IA. No.I.

3. Heard, perused the trial court judgment and on its perusal, it appears that respondent has filed suit for partition and separate possession in respect of suit schedule property. In the said suit the appellant has claimed that, item No.3 of suit schedule property is granted by the Land Tribunal to the father of appellant and respondent has no share in the said property and there was already partition taken place about 30 years back by way of Apasath Vatani. Since the

preliminary decree is an executable decree there is every chance of initiating final decree proceedings by the respondent. Therefore, it is just and proper to stay the execution and operation of the trial court decree till next date of hearing. Hence, I proceed to pass the following:

:ORDER:

The operation and execution of the judgment and decree passed in OS No.12/2022 dated 30-07-2024 by the Civil Judge and JMFC, Haliyal is hereby stayed till the next date of hearing.

Issue notice on appeal memo and IA No.I and Ex-parte stay order to the respondent if PF is paid.

R/by: 04-09-2024.

Sd/-

Senior Civil Judge and JMFC.,
Haliyal.