

Reg. Civil Appeal 198/2023
Vishal Mehre Vrs. Dr. Girish

=====

ORDER BELOW EX.5.

[Passed on 06.04.2024]

- 1] This an application for staying the effect and operation of judgment and decree in RCS No. 249/2016 dtd. 27.11.2023 till disposal of appeal.
- 2] Read the application and say filed by the respondent. Heard Ld. Counsel for both the parties. Perused the record.
- 3] It was a suit for possession and permanent injunction which came to be decreed by the impugned order with direction to hand over the possession of suit property to plaintiff within one month and also for inquiry as to mesne profits.
- 4] Thus, the impugned judgment and decree has the substantial effect of divesting the defendant from possession of the suit property whereas the defendant has challenged the same in appeal. Thus, if the effect of decree as to possession is not stayed, the substantial right of defendant are likely to be affected without hearing of appeal on merits and it would render in fructuous.
- 5] On the other hand, in view of the inquiry expected as to mesne profit, necessary condition needs to be imposed while staying the effect of the decree. The suit property is agricultural land which is admittedly in possession of the defendant in view of the impugned judgment. An amount of Rs. 10,000/- per annum during pendency of the appeal would be the

reasonable amount on such count. Hence, the order as follows:-

ORDER

1. The effect and execution of the judgment and decree in RCS No. 249/2016 is hereby stayed till disposal of the appeal subject to deposit of Rs. 10,000/- per annum in Court by the appellant/defendant towards the mesne profit.
2. Intimation to the Trial Court.

Date : 06.04.2024.

[Smt. Shayana Patil]
District Judge-2 Akola