

**ORDER BELOW EXH. 5**in **R.C.A.No. 16/2024**Janardhan Karape and other  
Vs. State of Mah. and other

MHBI180003132024

**R.C.A.No. 16/2024**  
**Janardhan Karape and other Vs.**  
**State of Mah. and other****ORDER BELOW EXH. 5**

1. This is an application filed for stay as per order 41 rule 5 of CPC. It is submitted that the appellants are the original plaintiffs. Plaintiffs and defendant No. 4 to 7 are siblings. Defendant No. 5, 6 and 7 have relinquished their share. Plaintiff and defendant No. 4 are contesting about the share in the suit properties. Plaintiffs contend that they have 1/4th share in the suit properties and the amount of compensation deposited by the State Govt. in respect of acquisition of agricultural land. Plaintiffs further contended that they were in service outside the village and defendant No. 4 represented them but, after the deposit of LAR compensation amount, defendant No. 4 changed his attitude and wanted to grab the money. Plaintiffs have meritorious case therefore, effect of judgment in RCS No. 191/2018 be stayed and the executing court be directed not to dispose the compensation amount.

2. Notice is issued to defendant No.4. Defendant No. 4 appeared

and filed his say at Exh.19 and denied the contents of application. It is submitted that partition between plaintiff and defendant No. 2 alongwith their father took place in the year 1990. Subsequently, land was acquired. Therefore, defendant No. 4 is only entitled person to receive the compensation amount. Plaintiffs have suppressed material facts. Order of the Ld. Trial Court is proper. Hence, prayed to reject the application.

3. I have perused the Judgment of Ld. Trial Court. I perused the available record. As per the record, there is alleged partition between plaintiffs and defendant No. 4 in the year 1990 and subsequently, there was acquisition of land property. The partition of 1990 is recorded in the revenue records. In this background, the entitlement of plaintiffs requires to be reconsidered in this appeal. Thus, the effect of the Judgment and Order in RCS No. 191/2018 needs to be stayed. Plaintiffs are claiming 1/4 share in the property as well as compensation. Therefore, blanket stay for disbursement of the entire amount before the execution court cannot be granted. In view of the circumstances, I deem fit to pass the following order.

### **ORDER**

1] The effect of Judgment and Order in RCS No. 191/2018 is hereby stayed till the decision of the appeal.

2] The execution court in LARD No.83/2016 in the case of Madhukar Vs. State arising out of LAR No. 138/2004 is directed not to disburse 1/4th of the compensation amount deposited in the respective account

and pay the rest of the amount to the award holder.

3] Record and proceeding be called from the Ld. Trial Court.

4] Issue writ accordingly.

Date : 23.09.2024.

Place: Kaij.

(K. D. Jadhav)

Addl. District Judge, Kaij

**CERTIFICATE**

"I affirm that the contents of this PDF file are word to word as per original Judgment/order."

Sd/-

(N.K. Jojare)

Steno Gr-I

Dictated On : 23.09.2024

Transcribed on : 23.09.2024..

Checked & signed on : 23.09.2024.