

**ORDER BELOW EXH.04**

(Passed on 24.06.2022)

1. Having suffered decree of perpetual injunction passed by learned Civil Judge Junior Division, Shegoan on 18.07.2019 in RCS No.02 of 2013 defendants preferred present appeal. Appellants filed this application under order 41 Rule 5 of Code of Civil Procedure with a prayer to stay operation and execution of judgment and decree passed by learned trial Court in RCS No.02 of 2013.
2. Accordingly, reply of respondents is called. Appellants in Exh.4 contended that substantial question of law and facts are involved in the appeal. It will take time to decide the appeal on merit, to avoid complication operation and execution of judgment and decree of learned trial Court may be stayed.
3. In reply, at Exh.10 respondent submitted that learned trial Court has rightly decreed the suit of perpetual injunction in their favour and appellants are not in possession of suit property, therefore, application may not be allowed.
4. I have heard learned Advocate Mr.N.S.Agrawal for appellants and learned Advocate Mr.K.V.Mishra for respondents at length.
5. At this stage this Court is not supposed to appreciate evidence to the hilt. Apparently by judgment and decree in RCS

No.02 of 2013 appellants are perpetually restrained for causing obstruction to the possession of respondents over suit property.

6. Learned Advocate for respondents rightly argued that, since 18.03.2013 order of injunction is operating against appellants and they have not preferred any appeal against that order. Thus, from 2013 and up till now injunction order is operating against respondents. No doubt if operation and execution of impugned decree is stayed in certainly it would amount to give license to appellants to disturb peaceful possession of respondents over suit property.

7. Moreover, allowing Exh.4 would impliedly amount to allowing appeal because during pendency of appeal, appellants may dispossess respondents from possession of suit property.

8. Therefore, I find no substance in the present application. Grounds are not satisfactory. Hence, application Exh.4 is deserves to be rejected. Hence, following order.

ORDER

1. Application Exh.4 is rejected.
2. Both parties to take note.

Khamgaon
Dt. 24.06.2022

(Prasad P. Kulkarni)
Ad-hoc District Judge-2,
Khamgaon.

Certificate

I affirm that, the contents of this P.D.F. file are correct, word to word, as per original order.

Name of Court : Adhoc DJ-2, Khamgaon Dist. Buldana.

Name of Steno : Govinda D. Bhoyte (Stenographer Grade-3)

Decided On : 24.06.2022.

Signed On : 24.06.2022.

Uploaded On : 24.06.2022.