



R.C.A. No. 31/2022  
Chandrakant + 1 X Wasudeo + 1  
C.N.R. No. MHBU11-000372-2022

**ORDER BELOW EXH. 05**

Present appeal is filed by original defendants in R.C.S. No. 29/2014 against the judgment and decree passed by learned 2nd Jt. Civil Judge Junior Division, Malkapur, dated 04/05/2022. In said appeal, this application is filed for stay of execution of said judgment and decree.

2) Heard Ld. Advocate Shri. R.V. Patil for appellants. Ld. Advocate submitted that, suit property is admittedly in the possession of present appellants/respondents. This is a first appeal and appellants' statutory right. He further submits that, the present appellants have strong case. Immediate stay of execution of said judgment and decree is required, to avoid prejudice to present appellants. He prayed for stay for the execution of said judgment and decree till final hearing of appeal.

3) Ld. Advocate Shri. S.R. Tarkase for respondents submits that, appellants have no right to remain in suit property as per the judgment of the trial Court. He further submits that, if, stay is granted the appellants shall be directed to deposit costs and occupational charges in Court.

So that, he should not delay the hearing of appeal to avoid prejudice to respondent/plaintiff.

4) After hearing and thoughtful consideration with the submission by learned Advocate for appellants and on perusal of judgment and decree, I am of the view that, the prima facie case is made out to grant stay till next six months in view of pendency before this Court. To avoid loss to the plaintiffs/respondents, they will be compensated by occupational charges. The amount of Rs. 500/- per month as occupational charges considering all facts and circumstances will be justifiable. Hence, I pass the following order.

### **ORDER**

- 1) The execution of judgment and decree in R.C.S. No. 29/2014, dated 04/05/2022 passed by learned 2nd Jt. Civil Judge Junior Division, Malkapur is hereby stayed for six months subject to following conditions :-
  - a) The appellants/respondents are directed to deposit amount of Rs. 500/- (In words Rupees Five Hundred Only) per month as an

occupational charges in Court from the date of Trial Court's judgment. The appellants are directed to pay said amount within one month from this order and thereafter deposit said amount of Rs. 500/- on or before 10<sup>th</sup> day of every month. The said amount will be payable to plaintiffs/respondents, after judgment in this appeal, if appellants failed.

Malkapur.  
Date - 06/08/2022.

**(Prakash R. Kadam)**  
District Judge - 1,  
Malkapur.

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Chandrakant + 1 X  
Wasudeo More + 1  
ORDER ON EXH. 05

**CERTIFICATE**

I certify that, this order P.D.F. uploaded is a true and correct copy of original signed order.

Name of Court : District Judge - 1, Malkapur.

Name of Steno : Miss H.D. Chaudhari.