

**IN THE COURT OF DISTRICT JUDGE-2, GONDIA.**

**REGULAR CIVIL APPEAL NO.40/2022.**

**CNR No.:MHGO010006442022.**

**CHANDRAKIRAN PREMLAL BAWISTALE & ORS.**

**VS.**

**RAMESH PRAMLAL BISEN.**

**ORDER BELOW EXH.10.**

(Passed on this 8<sup>th</sup> December, 2023)

Present application is filed under Order 41, Rule 5 of the Code of Civil Procedure for stay to the execution proceeding in R.C.S. No.12/2015.

2] By way of present application, appellants/defendants prayed for stay to the execution proceeding in R.C.S. No.12/2015 of the Civil Judge, Junior Division, Tirora.

3] Say is filed by plaintiff/respondent at Exh.13.

4] Heard Learned advocates representing parties.

5] Gone through the record.

6] Present appellants were defendants and present respondent was plaintiff in Regular Civil Suit No.12/2015 before the Civil Judge, Junior Division, Tirora, District Gondia. On perusal of judgment dated 04/04/2022, it came to my notice that, said suit came to be decreed. Present appellants/original defendants were directed to remove their

encroachment over the suit property Gut No.168, area 0.28 H.R. shown by letter ABCD and CDEF, area each 0.05.5 H.R. and deliver the possession to plaintiff, failing which plaintiff/respondent may get it through the Court. The measurement map at Exh.37 as well as plaint map was treated as part and parcel of the decree.

7] Being dissatisfied by the judgment of Learned Civil Judge, Junior Division, Tirora in R.C.S. No.12/2015 dated 04/04/2022, present appellants/defendants filed appeal which came to be registered as RCA No.40/2022.

8] I have gone through the provisions of Order 41 Rule 5 of C.P.C.. On perusal of record, it came to my notice that, there is sufficient cause for stay of execution of impugned decree. Definitely, some time is required to decide the present appeal. If mean the time, the defendants are dispossessed from the suit property, the purpose to file the appeal would be frustrated. To my mind, it is necessary to stay the execution of impugned judgment to avoid multiplicity of suit between the parties and to avoid further complications between the parties. Hence, I proceed to pass following order.

### **ORDER**

1. Application at Exh.10 is allowed.
2. The execution of judgment in Regular Civil Suit No.12/2015 of the Civil Judge, Junior Division, Tirora, District Gondia is hereby stayed till decision of present appeal.

3. Inform the Learned Civil Judge, Junior Division, Tirora accordingly.

Gondia  
Date:08/12/2023.

Sd/-  
(N. D. Khose)  
District Judge-2, Gondia.