


MHGO010015482018 	<p style="text-align: center;"><u>IN THE COURT OF PRINCIPAL DISTRICT JUDGE, GONDIA.</u></p> <p style="text-align: center;"><u>R.C.A. NO.05/2019</u></p> <p style="text-align: center;"><u>Rajesh Anandram Khatwani</u> <u>.vs.</u> <u>Muktabai Bawanthade & Ors.</u></p>
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ORDER BELOW EXH.4

(Passed on 16.12.2025)

By the present application, filed in the year 2019 particularly on 31.12.2018, the appellant/original defendant No.2 has prayed for grant of stay to the execution, operation and effect of the judgment and decree dated 10.10.2018 passed in Special Civil Suit No.52/2012 by the learned Civil Judge Senior Division, Gondia.

2. It is contended that the appellant has a strong prima- facie case in his favour and that unless the operation of the said judgment and decree is stayed till the final decision of the appeal, the very purpose of the appeal would be frustrated. Respondent No.7/original defendant No.3 Ghisulal has given no objection to the grant of stay and has stated that the decree is apparently illegal.

3. The respondent Nos.1 to 4/original plaintiffs objected the application, contending that the incident occurred in the year 2010 particularly on 12.10.2010. After

trial on merit, the decree is granted on 10.10.2018 of Rs.20,00,000/- and directed the appellant being defendant No.2 to pay Rs.10,00,000/- with interest. The subject decree is monetary in nature. The respondent Nos.1 to 4 are suffering since 12.10.2010. It is claimed that, this Court may direct the appellant to pay Rs.10,00,000/- in the Court to get stay. It is the appellant who had given contract of dismantling the subject property-house to the respondent No.7 and due to the negligence, the accident occurred, in which the bread earner of the respondent Nos.1 to 4 succumbed, therefore, objected the application.

4. Separate say is filed by respondent Nos.5 & 6 who are original owners of the property and brought as defendant No.1 & 1-A against whom the suit is dismissed and stated that they have nothing to say in respect of the application.

5. Heard the advocate Shri. I. I. Hotchandani for the appellant, who submitted that, the appellant has got prima-facie good case on merits and prayed to stay the order. On the other hand learned advocate Shri. N. S. Popat on behalf of respondent Nos.1 to 4 submitted that, if at all stay is to be granted, the decree being in the nature of money decree, the amount be directed to be deposited. He further contented that, since year 2010, the respondent Nos.1 to 4 are waiting for the fruit of the decree. In such scenario, prayed to direct

the payment and deposit of the amount.

6. In view of above, as the respondent No.7 remained absent while hearing application is proceeded without hearing on behalf of respondent No.7.

7. The perusal of the decree shows that, the Special Civil Suit No.52/2012 was filed for compensation valued at Rs,20,00,000/- on the ground that the defendant No.1 owner of the house had entered into an agreement of sale of the house property of municipal property No.3/439, Nazul Sheet No.30, Plot No.42/40,5/20 area 896 sq.ft. at Gondia with defendant No.2/present appellant and gave him permission to demolish the said house as it was a old house in the dilapidate condition. The defendant No.2/the appellant gave contract to defendant No.3 was contractor, who took the contract to demolish the above house property. On 12.10.2010 suddenly the defendant No.3 took the work of demolishing the house without any permission from Nagar Parishad and no precautions were taken. Therefore, when Kachruji Bawanthade was passing by the road nearby/adjacent to the above said house property, on 12.10.2010 suddenly, the debris of the wall of the house fell on him and other 4 to 5 persons who were passing from the road. Due to fall of the wall on Kachruji Bawanthade, he sustained fatal injuries and died on the spot. Therefore, offence vide Crime No.217/2010 came to

be registered at Police Station, City Gondia for the offences punishable under sections 304, 334, 337, 338, 283 and 34 of I.P.C.

8. In view of the above, a claim on account of fatal accident due to untimely death of Kachruji Bawanthade was filed as Special Civil Suit No.52/2012. Upon consideration of the merits, the learned Trial Court decreed the suit in favour of respondent Nos.1 to 4 for a total sum of Rs.20,00,000/-, directing defendant Nos.2/present appellant and defendant No.3/respondent No.7 to pay Rs.10,00,000/- each, with future interest at the rate of 6% per annum by impugned judgment and decree dated 10.10.2018.

9. From the above, it is crystal clear that, the decree is in the nature of money decree. Therefore, while granting stay to the money decree, the same cannot be granted in usual course without proper security in favour of the plaintiffs/respondents. Considering the above facts, it is necessary to direct the appellant to furnish the bank guarantee of the decretal amount or deposit 75% of the amount in the Court and furnish the guarantee of the balance amount, which would suffice the purpose. Due to pendency of the present application filed with the appeal on 31.12.2018 till date as it was not pressed, the appeal is pending. Therefore, the appeal is not yet kept on ready board for final

arguments.

10. In view of above, the above directions are necessary to be complied by the appellant within a period of one month from today, failing which the stay application shall stand rejected by the present order itself.

The appellant is further directed to produce the paper-book within a period of one month from today, failing which the matter shall proceed further according to law, including dismissal of the appeal for non-compliance. In view of above, following order is passed.

ORDER

1. The effect and operation of the judgment and decree dated 10.10.2018 in special civil suit No.52/2012 shall stand stayed against the present appellant only on following conditions:-
 - 1-A. That, the appellant shall deposit 75% of the decretal amount of Rs.10,00,000/- and furnish a bank guarantee of the balance amount of the decree within a period of one month or in the alternative furnish bank guarantee of the entire decretal amount within a period of one month from today.
 - 1-B. The appellant shall produce the paper-book within a period of one month from today.
 - 1-C. Upon failure to comply with any of the above conditions, the stay granted by this order shall automatically get vacated and the application

Exh.4 shall be deemed to have been rejected.

- 1-D. Further, if the paper-book is not produced in time, on that count also the appeal shall proceed further according to law, including dismissal of the appeal for non-compliance.
2. In the above terms, the application Exh.4 is allowed and disposed-of.

Sd/-

Gondia.

(R. N. Joshi)

Date : 16.12.2025

Principal District Judge, Gondia.