

Order below Exh.28

1. Read application and say. Heard Ld. Counsels for the both sides. The Ld. Counsel for the plaintiff submitted that, the plaintiff wants to challenge the order passed below interim application at **Exh.17** by preferring the appeal before the District Court. Hence he prayed to stay the order below interim application (**Exh.17**) till preferring the appeal.

2. The say of defendants was called. The defendant No.1 has filed her say and submitted that, no hurdle will be caused to the plaintiffs by order below **Exh.17**. Hence there is no need to stay the said order below **Exh.17**.

3. Perused the record and documents. It reveals that, the application at **Exh.5 and Exh.17** are decided on merits by considering all the prima facie circumstances and documents before the Court. By way of order below **Exh.17**, the plaintiffs and defendant No.2 to 4 are temporarily restrained from obstructing the possession of defendant No.1 over the property No.1168 situated at plot No.110. The temporary relief is only restrained to her property No.1168.

4. As per Order 41 Rule 5 (2) of The Code of Civil Procedure, 'Where an application is made for stay of execution of an appealable decree before the expiration of the time allowed for appealing therefrom, the Court which passed the decree may on sufficient cause being shown order the execution to be stayed.'

5. It means that, in the present case the plaintiffs have to show the sufficient cause for stay of order below **Exh.17** as per the Order 41 Rule 5(2) of The Code of Civil Procedure. In the present application the plaintiffs have only mentioned that, they are going to prefer an appeal before the District Court and none other circumstances brought before the Court which can lead to stay the order below **Exh.17**. As in interim application at **Exh.17** is decided on merits, after considering the documents and material on record, I do not found any sufficient cause or ground in the present application for granting stay to the order passed below **Exh.17**. Hence I pass the following order.

ORDER

Application is hereby rejected.

Peth-Vadgaon
Date : 08/08/2018

Sd/-
(J. S. Gaikwad)
Jt. Civil Judge Jr. Dn., Peth-Vadgaon