



Milind Mane Vs. Grampanchayat Kasaba Sangaon

CNR - MHKO130005722014

ORDER BELOW EXH. 60 IN R.C.S.No. 120/2014

1. This application is filed by plaintiff contending that, this Court has passed order below Exh. 51 in favour of plaintiff against the defendant no. 4, directing the defendant no. 4 to remove the tin shed and compound wall construction.

2. It is further submitted that, the defendant no. 4 within stipulated period has not removed said tin shed and compound wall. Further, the defendant no. 4 intentionally deliberately avoiding to follow the order of this Court. Vide affidavit Exh. 63, it is further submitted by the plaintiff that, though the Misc. Civil Appeal no. 266/2022 is preferred by the defendant no. 4, in that appeal the stay was granted only up to 3 months. However, thereafter there is no stay to the order of this Court. Hence, learned advocate for plaintiff indicating conduct of defendant argued to execute the order passed below Exh. 51 expeditiously as there is no stay to the order of this Court.

3. Contrary, say to this application filed by learned advocate for defendant no. 4 contending that, Misc. Civil Appeal No. 266/2022 is preferred by him and argument of plaintiff in that appeal is over. It is submitted that, only argument of defendant no. 4 is required to be completed. Further, the case where the appeal is pending was on long leave. Therefore, defendant no. 4 could not completed his argument. According to defendant no. 4, the plaintiff instead of proceeding with the suit filed this

application unnecessarily. Hence urged to reject the application.

4. Perused the record. Heard learned advocate of both the parties.

5. Admittedly, it is not disputed that where appeal is pending that Court was on long leave. Further, it reflects from the affidavits of Exh. 63 that stay order is not extended by the Hon'ble Appellate Court. However, considering long leave of the Hon'ble Appellate Court and only the hearing of defendant no. 4 remain to be completed, it is just and proper to grant last opportunity to the defendant no. 4 to bring suitable order for non execution of order of this Court passed below Exh. 51 from Hon'ble Appellate Court. Hence, as a last opportunity time is granted to the defendant no. 4 to bring the suitable orders from Hon'ble Appellate Court on or before next date, or otherwise necessary order shall be passed in respect to execution of order below Exh.51.

Kagal
Date:- 06/04/2024

(B.D.Gore)
Civil Judge Junior Division,
Kagal.