

MHLA050002472024



ORDER BELOW EXH.10 IN SPECIAL DARKHAST NO.60/2024

[Kamal .. Vs.. State & Ors.]

The J.D.No.3 has filed his say at Exh.10 and contended that, the darkhast is miscalculated and the J.Ds. have forwarded documents to file appeal against the Judgment and Decree before the Hon'ble The Bombay High Court. So it is prayed that, the execution proceeding may be stayed till the decision of the Hon'ble The Bombay High Court.

2. Basically, J.D.No.3 has submitted his say and has sought prayer to stay the proceeding. The J.D. also has not paid proper Court fees stamp when he has sought the relief from the Court by presenting the say-cum-application.

3. The D.H. has filed say and contended that, there is sole intention to delay the matter and therefore the application may be rejected. Today learned advocate for the D.H. has submitted a pursis and contended that, after taking a search of the Hon'ble The Bombay High Court Website and the matters listed therein, she found that no Writ Petition or Appeal is filed before the Hon'ble The Bombay High Court.

4. The opponents were called out repeatedly. Opponent Nos.1 and 2 who is represented through the AGP. AGP has appeared and submitted that, he has no role to play in the matter as the amount of darkahst is to be paid by opponent No.3.

5. Learned Advocate for the opponent No.3 is called out alongwith opponent No.3. Both of them are absent. So learned advocate for the D.H. submitted that, the only practice to delay the matter is being applied by the J.D.No.3.

6. I found merit in the submission of learned advocate for the D.H. for the simple reason that, the J.D.No.3 has neither appeared in person nor its advocate. J.D.No.3 has not substantiated his contentions that, the matter is refer to

executed director, legal advisor of Godavari Marathwada Irrigation Corporation, Aurangabad to prefer appeal in the Hon'ble The Bombay High Court. The J.D.No.3 has not appeared and submitted anything upon his prayer to stay the proceeding. There is nothing found of preferring any kind of appeal before the Hon'ble The Bombay High Court and no order is passed in the matter. So this is nothing but causing delay in the darkhast. Therefore, there is no question to stay proceeding without their being any order of the Hon'ble The Bombay High Court. The D.H. to take necessary steps against the J.D. to satisfy the decree.

Sd/-
[S.N.Sarde]
Civil Judge Senior Division, Ahmedpur.

Date:04/01/2025.