

ORDER BELOW EXH.5
IN MISC.CIVIL APPEAL NO. 184/2021

The appellants have filed present “stay application”.

2] Heard learned counsel for the appellants.

3] Perused record.

4] Appellants are original plaintiffs who have filed Special Civil Suit No. 516/2021 for declaration and permanent injunction. Appellants had also filed an application for temporary injunction before the trial Court praying for restraining defendants from disturbing plaintiff’s possession over suit property and from creating third party interest in the suit property. The learned trial Court has rejected that application vide order dt. 12.07.2021. Appellants have challenged that order in this Misc. Civil Appeal on the grounds stated in the memo of an appeal.

5] The title of this application reads as “stay application”. Para 3, 4 and 7 of this application have statements to stay the order passed by the trial Court. Whereas prayer clause of application is thus, “the respondent himself or anyone through him be restrained from creating third party interest in respect of the suit property and further not to disturb the lawful and peaceful possession of appellant’s over the suit property by order of temporary injunction”.

6] So far as, contents of the para 3,4 and 7 of an application are concerned, there is nothing that the impugned order of the trial Court is being executed which can be stayed by the Court of Appeal. Appellants have filed present application for temporary injunction in Misc. Civil Appeal under order 43 against the Order of the trial Court, rejecting the application for temporary injunction. Considering the prayer clause of application, if the application is allowed it will tantamount of allowing the Misc. Civil Appeal itself without final hearing of the parties. Hence, the order.

Order

Application is rejected.

Pune.
Date :24.01.2022

(Tushar T.Aglawe)
Adhoc District Judge-2,Pune

Certificate

I affirm that the contents of this P.D.F. file order are same word for word as per original order.

Name of Steno : Mrs.Bankapure V. N. Steno- Grade-I,

Name of Court : Shri. T.T.Aglawe
Adhoc District Judge -2 , Pune.

Order on Date : 24.01.2022

Order signed by PO on. - 24.01.2022

Order uploaded on – 24.01.2022