

RCS 108 /2024

Order Below Exh.56

Present application is filed by the plaintiff in order to stay the order passed below Exh.5 dated 21/06/2025 and further to grant status-quo till filing of appeal.

02. The plaintiff contended that the present suit filed for partition and perpetual injunction. Further, in present suit earlier status-quo was granted. However, thereafter same was vacated due to technical reason. The plaintiff contended that this court decided interim injunction application of the plaintiff i.e. Exh.5. Therefore, defendant No.7 to 9 will take possession of the suit property. The plaintiff want to file appeal against order passed by this court. However, till filing of appeal it is necessary to stay order passed below Exh.5 and to grant status-quo. Hence, this application.

03. Defendant No.7 to 9 resisted the application by filing their say at Exh.57. They denied each and every contention of the plaintiff. They contended that order passed below Exh.5 is not executable. Therefore, plaintiff has no right to file present application. Hence, they prayed to reject the application.

04. Heard Ld. Advocate for the plaintiff and Defendant No.7 to 9. The Ld. Advocate for the plaintiff strongly argued that as per Section 108 of Code of Civil Procedure this court has right to

grant status-quo. On the other hand, Ld. Advocate for the defendant argued that order passed below Exh.5 is not executable. Hence, there is no purpose to grant status-quo.

05. Present application is filed for status-quo in order to file appeal before Hon'ble Appellate Court. As per order XLIII, Rule 2 of Code of Civil Procedure the rules of order XLI, shall apply to order XLIII. As per order XLI, Rule 5 (2) the Court has power to stay the decree. However, in present suit status-quo order granted in favour of the plaintiff was already vacated. Thereafter, interim injunction application of the plaintiff decided on merit and same is rejected. In this peculiar situation, it would be not appropriate to grant further status-quo to the plaintiff. Furthermore, order passed below Exh.5 is not executable order. Moreover, status-quo was not existed at the time of decision of injunction application. Accordingly, I pass following order :-

ORDER

Application (Exh. 56) is rejected.

Bhor
Date :25.06.2025.

(S.D.Shirsat)
2nd Jt.Civil judge, Jr. Dn.,
Bhor, Dist. Pune

