

ORDER BELOW EXH. 5
(Dated 20th of July 2024)

1- The appellants have filed this application for stay under Order 41, Rule 5 of CPC submitting that, the respondent Nos. 1 and 2 i.e. original plaintiffs have filed special Civil Suit No. 84/2018 against the present appellants and others. The present appellants have strongly resisted the plaintiffs' claim on various legal and other grounds and prayed for dismissal of the suit. The Trial Court decreed the suit with costs by its judgment and decree dated 12.09.2022. Being highly aggrieved and dissatisfied, the appellants have filed this appeal challenging the impugned said judgment and decree. The appeal will take its own time for its disposal. However, respondent Nos. 1 and 2 are in haste to get execution of said illegal decree by filing execution petition. If the stay order is not passed the substantial loss may result to the appellants. Hence the respondent Nos. 1 and 2 i.e. original plaintiffs be prevented by order of stay to the execution of judgment and decree under appeal. If the stay is granted, no loss or prejudice would be caused to the respondent Nos. 1 and 2 i.e. original plaintiffs. The appellants have every chance and hope of success in the appeal. If the stay order is not granted the very purpose of filing the appeal will be frustrated and the appellant will lose their legal rights, share and interest in the suit properties. Hence execution of the judgment and decree dated 12.09.2022 passed by CJSD, Baramati in Spl.Civil Suit No. 84/2018 may kindly be stayed till final disposal of the appeal.

2- The respondent No.1 has resisted the application submitting that Spl.Civil Suit No. 84/2018 was filed for partition . The decree is sent to the Tahsildar, Baramati as per Section 54 of CPC for partition. The actual partition will take considerable time. Therefore, there is no any urgency to stay the execution of judgment and decree. The respondents are ready to proceed with this appeal expeditiously. Hence application be rejected.

3- Heard Advocate for appellant and for respondent No.1. It is admitted fact that decree in Spl.Civil Suit No. 84/2018 is already sent to Tahsildar for partition as per section 54 of CPC. The appellant have challenged the judgment and decree by filing present appeal. If the decree is executed the present appeal will become infructuous and the appellants will suffer irreparable loss. The respondents are ready to proceed with the appeal expeditiously. Hence I pass the following order.

ORDER

- 1- Application Exh. 5 is allowed.
- 2- The execution of Judgment and decree dated 12.09.2022 passed in Spl.Civil Suit No. 84/2018 by Ld. CJSD, Baramati is hereby stayed till the final decision of this Appeal.
- 3- The appellant shall produce private paper book.
- 4- Call R & P of Spl. Civil Suit No. 84/2018.
- 5- Both the parties shall proceed with the appeal expeditiously.

Date: 19.07.2024.

(S. S. Saste)
Adhoc District Judge-1
Baramati

CERTIFICATE

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

Name of Steno : S.V. Hirve
Stenographer Grade-I

Name of Court : Smt. S. S. Saste
Adhoc District Judge-1, Baramati

Date of order : 20.07.2024

Order signed by PO on. : 20.07.2024

Order uploaded on : 20.07.2024.