

**COMMON ORDER BELOW EXH.5 & 25 IN REGULAR CIVIL**  
**APPEAL NO.16/2017**  
**CNR NO.MHRG150001162017**

1. The appeal is arising out of judgment and decree dt.19/01/2017 passed by Ld. C.J.S.D. Mahad in Spl.Civ.Suit No.205/2010. Parties to the proceeding are referred with their original status before Ld. Lower Court. At this stage it is necessary to mention that sole appellant died during pendency of the appeal and his 5 heirs are brought on record to proceed with the appeal. By the said judgment and decree Ld. Lower Court directed the defendant No.1 Pandurang Satve to execute the Sale Deed of suit property bearing Gat No.33 of Village-Umroli Tarfe Kharavli, Tal-Mangaon, Dist-Raigad in favour of plaintiff Sanjay Dandekar after obtaining necessary permission of S.D.O. Mangaon. The said defendant being dissatisfied with the judgment and decree of the Ld. Lower Court referred above filed present appeal to challenge the same. In the said appeal he filed application of Exh.5 for staying execution operation of said decree. The other defendant Nos.2 & 3 are made party respondents to the present appeal. However the contesting respondent No.1 Sanjay Dandekar who happens to be the plaintiff before Ld. Lower Court filed his say on the petition itself stating that impugned judgment and decree is just legal, proper and therefore same is not required to be stayed. Accordingly he prayed for rejection of the application.

At a same time the said respondent No.1 original plaintiff has filed application of Exh.25 asking defendant No.1 Pandurang Satve to maintain status-quo in respect of the suit property and also not to create third party interest therein till final hearing and disposal of the main appeal. Today the heirs of appellant Pandurang Satve have filed their say of Exh.36 and resisted the relief claimed in Exh.25 stating that passing order against them would be prejudicial to their interest as they could not use the suit property being owner thereof. Accordingly they prayed for rejection of the application of Exh.25.

2. Considering the nature of reliefs claimed by the contesting parties against each other in respect of the suit property I propose to decide these applications by this common order.

3. I have heard Adv.Shri.V.U.Ghayal for appellant and Shri.H.A.Jalgaonkar for contesting respondent No.1 on their respective applications. I have also carefully considered the material and relevant documents touching to the merit of present applications.

The decree for specific performance of the contract in respect of suit property was passed in favour of respondent

No.1 and against appellant. The appellant is seeking relief of staying execution operation of impugned judgment and decree. At a same time respondent No.1 is seeking interim relief of asking appellant to maintain status-quo with respect to the suit property.

4. As impugned judgment and decree is subjudice before this Court and in case if parties to the proceeding by their positive or negative actions, inactions makes attempt to change the nature of the subject matter of the suit then same will create unnecessary complications in the appeal. Therefore in my view it is necessary to ask both parties to maintain status-quo with respect to the subject matter of the suit till the decision of the appeal on merit. In other words the land owner Pandurang Satve/defendant No.1 shall not create any third party interest with respect to the suit property. Similarly the execution operation of the part of the impugned order asking defendant No.1 to execute the Sale Deed of the suit land is stayed till decision of the appeal on merit. It is made clear that parties are not prevented from seeking prior permission of the competent authority if required for executing Sale Deed of the suit land because that process will take some time. Needless to say that such order of granting permission if any passed by the competent authority will be made effective subject to fate of this appeal. Parties to act

accordingly. Original order be kept with Exh.5 and copy thereof be kept with Exh.25.

**(Dictated and pronounced in open Court)**

Mangaon,  
Dated :- 22/03/2022

(N.S.Kole)  
District Judge-1 &  
Addl. Sessions Judge, Mangaon  
Raigad