

ORDER BELOW EXH. 132 IN REGULAR CIVIL SUIT NO.15/1989

1. This is an application filed by defendant no.1 for staying the hearing of the present suit contending that, in view of order passed by the Hon'ble High Court in Writ Petition bearing No.10124/2009 it is necessary to stay the hearing of the present suit. This application is strongly opposed by the plaintiff by filing say at Exh.134 contending that, as such the Hon'ble High Court has not stayed the hearing of the present suit in the writ petition as mentioned in the present application, it is not necessary to stay the hearing of the present suit. Accordingly, he prayed for rejection of this application.

2. Perused application and say filed by the plaintiff. Heard both sides at sufficient length and time. I have also gone through the record & proceeding together with the xerox copy of order of Hon'ble High Court in Writ Petition No.10124/2009 filed alongwith this application.

3. The learned advocate for defendant no.1 here argued that, as in this case the tenancy reference was made and it was reached up to the Hon'ble Maharashtra Revenue Tribunal, Mumbai and the Hon'ble Maharashtra Revenue Tribunal, Mumbai has remanded the matter to the Tahasildar, Vengurla for fresh inquiry, the issue of tenancy is not finally adjudicated. He further submitted that, as in respect of suit properties two writ petitions bearing Nos.6432/1995 and 10124/2009 are pending before the Hon'ble High Court in respect of tenancy issue, it is necessary to stay the present suit.

4. On the other hand, to slap down the argument put forth by defendant no.1, the learned advocate for plaintiff strongly argued that, though the writ petitions are pending before the Hon'ble High Court, the Hon'ble High Court has not stayed the hearing of the present suit and therefore this Court cannot not stay the hearing of the present suit. So, as per his submission, this application is not tenable.

5. I gave thoughtful consideration to the submission made by both sides. I have also gone through the record & proceeding. It is admitted fact that, initially the tenancy reference was made in this proceeding, which went up to the Hon'ble Maharashtra Revenue Tribunal, Mumbai and in the said proceeding the Hon'ble Maharashtra Revenue Tribunal, Mumbai remanded the matter to the Tahasildar, Vengurla for holding a fresh inquiry and the said order is challenged by the present plaintiff in the Writ Petition No.6432/1995, which admittedly still pending before the Hon'ble High Court. Further, defendant no.1 has also filed another writ petition against the order of Hon'ble Maharashtra Revenue Tribunal, Mumbai in the tenancy revision No.298/B/2003 bearing Writ Petition No.10124/2009, in which the Hon'ble High Court has ruled that the said writ petition be heard with Writ Petition No.6432/1995 and also made rule on interim relief, which is in the form of staying the order of Hon'ble Maharashtra Revenue Tribunal, Mumbai. But, here it is necessary to mention that, in both writ petitions, the Hon'ble High Court has not stayed the hearing of the present suit. So, the prayer made in this application regarding staying of the suit cannot be granted as such this Court cannot sue motto stay the hearing of the suit. But, as such the tenancy issue is not finally adjudicated and as the matter is subjudice before Hon'ble High Court, at the most the Court can await to proceed with this suit till the final outcome is received in respect of tenancy issue. Accordingly, I proceed to pass the following order.

ORDER

- 1) Application is filed on record.
- 2) Both the parties are directed to pursue the tenancy matter so as the final outcome of tenancy issue is received earlier.
- 3) Costs in cause.

Vengurla.
Date:- 19/04/2016.

(D. S. Zanvar)
Civil Judge (J.D.), Vengurla.