

Order below Ex. 156 in Regular Civil Suit no. 15 of 1989

This is an application on behalf of the Defendants inter alia praying to stay the present suit. It is submitted that the issue of tenancy of the suit property is pending before Hon'ble High Court in Writ Petition no. 10124 of 2009. The said petition is admitted. In the Writ Petition no. 6432 of 1995 the decision of Maharashtra Revenue Tribunal is stayed. The Hon'ble High Court has decided to club said petitions together. Accordingly application was filed at ex. 132 and submitted the above facts. The said application came to be filed. However the predecessor of this Court made observations that the Court has to wait till the final outcome of the decision of tenancy which is pending before Hon'ble High Court. On the same grounds, the Defendant has now moved this application to stay the proceeding of this suit till the decision of the above mentioned petitions before the Hon'ble High Court.

2. The application came be resisted by the Plaintiff vide his say at ex. 157. As per the Plaintiff there is no order to stay the proceeding of this suit so made by the Hon'ble High Court. The decision of tenancy is being laid down by the Maharashtra Revenue Tribunal. It is further contended that the Defendant is smartly taking the advantage of the order of this Court so passed below ex. 132. In fact the request of the Defendant is so refused by the Court. Hence the instant application is hit by the principle of estoppel. Thus he prayed to reject the application as the proceeding of this suit is pending since many days.

3. Heard both side. At the outset it appears from the order of my predecessor that even though the application was filed by him, he observed that this Court has to wait till the decision of the said writ petitions as those are related with tenancy issue. However it is equally important to note that there is no stay order from the Hon'ble High Court with regard to the proceedings of this suit. In such background what appears from the order of Hon'ble High Court in Writ Petition no. 6432 of 1995 that the decision of Maharashtra Revenue Tribunal is stayed. Thus the issue of tenancy is completely depended on the fate of decision which will be made by Hon'ble High Court. Hence as my predecessor has observed, this

court has to wait till the decision of the above mentioned petitions before Hon'ble High Court. Thus it will be against the interest of justice of the parties to proceed further in the matter and to record evidence. On perusal of the predecessors order one can say that it was an indirect stay. The issue of tenancy is a core thing with respect to the dispute between the parties. Hence as this Court has to wait, no option is left but to stay the proceedings of this suit. Accordingly I pass following order:-

- i. The application is allowed.
- ii. The proceeding of this suit is stayed till the decision of Writ Petition no. 6432 of 1995 and 10124 of 2009 so pending before Hon'ble High Court.
- iii. The parties are again directed to pursue their matters pending before Hon'ble High Court at the earliest.

Sd/-

14.11.2018

Vinayak D. Patil

Civil Judge Junior Division, Vengurla.