

(CNR No.:-MHSN02-00-1838-2019)
ORDER BELOW EXHIBIT 22 IN SPECIAL DARKHAST
NO.30/2019
(Order dated 28/01/2020)

J.D. have filed this application to stay the execution proceeding. According to them, they have preferred second appeal against judgment and decree passed in R.C.A.No.377/2016 and R.C.A.No. 32/2018. J.D. have confidence that Hon'ble High Court will grant stay. Therefore they have prayed to stay the execution proceeding.

2. D.H. has filed his say below application at Exh.19 and raised strong objection. According to him, there is no stay order of Apex Court. J.D. have filed this application only to restrict the Court. According to him, he has received an amount in view of judgment and decree passed in Spl.C.S.No.140/2009. Thus it has no concerned with present matter. Therefore he has prayed to reject the application.

3. On perusal of the record it reveals that decree holder had instituted Special Civil Suit No.140/2009 for recovery of work contract tax amount of Rs.18,32,013/- along with interest at the rate of 18% p.a. Accordingly the suit was partly decreed and J.D. were directed to pay an amount of Rs.18,32,013/- with simple interest from the date of the suit till realisation of the amount. Thus plaintiff and defendants preferred first appeal bearing R.C.A. No.32/2018 and R.C.A.No.377/2016. Hon'ble District Court has dismissed R.C.A.No.377/2016 and partly decreed R.C.A. No. 32/2018. By way of judgment and decree in R.C.A.No.32/2018

defendants directed to pay an amount of Rs.18,32,013/- along with interest at the rate of 10% p.a. compound from the date of claim till the date of filing of the suit i.e. on 29.04.2009 and further directed to pay interest on decreed amount at th rate of 15% p.a. compound from the date of filing of the suit i.e. on 30.04.2009 till the realisation of entire amount. It reveals that the decree and judgment of the Trial Court has been modified in R.C.A.No.32/2018 and thereby defendants directed to pay compound interest. The present execution petition is filed for recovery of such compound interest. J.D. have preferred second appeal against the judgment and decree passed in R.C.A.No.377/2016 and R.C.A.No.32/2018.

4. J.D. have produced message forwarded by their learned counsel Shir.Ajit Pitale wherein it is stated that the second appeal is listed for first hearing in first week of January. J.D. have further produced case details. On perusal of case details it reveals that J.D. have preferred first appeal against RCA no.377/2016 and R.C.A.No.32/2018. Moreover, it reveals that the second appeal is adjourned for pre admission stage. It means the second appeal has not been admitted. Moreover, there is no stay of Hon'ble High Court. Unless and until the second appeal is admitted this execution petition cannot be stayed for unwarranted time. Mere J.D. have preferred appeal cannot be a ground to stay the execution proceeding. Unless and until the second appeal is admitted, no hearing and proceeding of execution proceeding can be stayed. Therefore, I proceed to pass the following order :-

O R D E R.

An application is rejected.

Sangli.

(Manisha N. Chavan)

Date: 28/01/2020. VIIth Joint Civil Judge Senior Division,
Sangli.

I affirm that the contents of this P.D.F. file Judgment/Order are same, word to word, as per the original judgment.

Name of the Stenographer	:	S. W. Pathan.
Court	:	7 th Jt.C.J.S.D. & Addl. C.J.M., Sangli.
Judgment/Order declared on	:	28.01.2020
Judgment/Order signed by the Presiding Officer on	:	28.01.2020
Judgment/Order uploaded on	:	30.01.2020