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CNRMHSN040003202025

Regular Civil Appeal No.30/2025

Vilas Chendu Kamble -- Appellant
Vs
Manoj Balaso Kadam - Respondent

COMMON ORDER BELOW EXH. 5 & 7

1] Being dissatisfied by the judgment and decree of the dismissal of the suit passed by 5th Joint Civil Judge Jr. Dn. Islampur on 28-02-2025 in Reg C.S.No.110/2020, this is an appeal by unsuccessful plaintiff. Pending hearing of the appeal these two application are for the stay of the operation of the impugned judgment and decree and for interim injunction for restraining defendant from raising further construction in the suit property.

2] I have heard Adv. Shri. Koparde for the appellant/plaintiff. He submitted that during pendency of the suit injunction order was in force till the final disposal of the suit, thereby restraining the defendant from raising construction of the house in the suit property. By taking me through written statement and the cross examination of the defendant learned advocate for the appellant/plaintiff submitted that there was no dispute that predecessor in titles of the plaintiff and defendant, who were three in

[2]

number, had 1/3 share in the suit property and the plaintiff had purchased 2/3 share in the suit property. The point of dispute is whether there was previous partition or not. Adv. Koparde further submitted that as per the averments in the written statement it is undisputed position that defendants had raised construction of his house up to plinth level and thereafter construction was stayed and said position is still at the suit property and therefore he prayed that pending hearing of the appeal impugned judgment be stayed and temporary injunction as prayed may be granted.

3] There is no caveat by the defendants in the appeal. As per the submission made at bar by the advocate for the appellant the construction of the defendant's house was up to the plinth level and thereafter there was injunction order till the final disposal of the suit. Under these circumstances, considering the above discussed facts as submitted by advocate for the appellant/plaintiff I find till appearance of the respondent the relief prayed can be granted to avoid further multiplicity of proceeding. Hence the following order-

ORDER

1] Till next date the operation of impugned judgment and decree is stayed.

[3]

2] Till next date the respondent/defendant or any one acting for them are directed to maintain status quo in respect of the suit property as regards to the proposed construction in the suit property which is up to the plinth level.

3] Issue show cause notice to the respondent/defendant why interim relief so granted shall not be continued till disposal of the appeal. Notice returnable on 06-05-2025.

4] The appellant shall make compliance Under Order 39 Rule 3A of Civil Procedure Code.

Date : 22-04-2025.

(Aniruddha Y. Thatte.)
District Judge 2 Islampur.

[4]

[5]

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ORDER BELOW 1

Admit. Call record and proceedings. Issue notice
to respondent returnable on 06-05-2025.

Date : 22-04-2025.

(Aniruddha Y. Thatte.)
District Judge 2 Islampur.