

MHSN110011292024

**ORDER BELOW EXH. 35 IN RCS NO. 191/2024**

( Mahesh Dhage Vs. Kiran Dhage)

1. The application is uploaded on 19/12/2024. The order of exhibit 5 was pronounced in open court at 5.45 PM in presence of plaintiff and his Advocate as well as defendant no. 4 and her advocate. The Advocate for plaintiff has submitted that, he is going to upload the application for stay of order and the opposite council has argued at that time. Accordingly, the order on exhibit 35 i.e. stay of order is passed on 20/12/2024 at 11.30 AM on yesterday's date and the order was orally pronounced in presence of both the Advocates and parties.

2. The plaintiff has filed present application to stay the order of temporary injunction passed by the Court till appeal period and maintain status quo.

3. Perused the application. Heard both the advocates. Learned advocate for the defendant no. 1 to 4 Shri. K.D.Bhinge orally submitted that, the Court has no power to pass orders after passing of order. The defendants have stopped the construction as per order of status quo passed by the Court and in case one months stay is granted the defendants will suffer from irreparable loss. The application is not tenable and it be rejected.

4. It is pertinent to note that, the application is filed on the same day after passing of order and in case the application is rejected, substantial loss may result to the plaintiff. The construction work is stopped by the defendants from 07/12/2024. Granting one months time from today's date will certainly prejudiced to the defendants. Hence, it would be just and proper to stay the order till 10/01/2025, which would be sufficient time to file the appeal and seek first order from appellate court.

5. Order passed under Order 39 Rule 1 is appealable order under Order 43(1)(r). According to Order 43(2) the provisions of Order 41 are applicable to the appeals from order. Order 41(5)(2) is provision where stay can be granted by the Court which passed the decree. Considering these provisions I proceed to pass following order.

### **ORDER**

1. Application at Exh.35 is hereby allowed.
2. Order below Exh.05 dated 19/12/2024 is hereby stayed and parties to maintain status quo as on today's date till 10/01/2025 only.
3. At the time of passing this order both the advocates are present before the Court.

Date: 19/12/2024

**(R. B. Kulkarni)**  
Jt. Civil Judge Junior Division, Atpadi.

**CERTIFICATE**

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

Name of the Stenographer	-	A.R. Jadhav
Court	-	Jt. CJJD and JMFC, Atpadi.
Date	-	19/12/2024
Order signed by the Presiding Officer on	-	20/12/2024
Order uploaded on	-	20/12/2024