ORDER BELOW EXH.38 OF RCS No.258/2015

1. Perused application. It appears that the plaintiff filed this application for fetching the relief of stay on the order passed below Exh.5 i.e. temporary injunction order dated 20.09.2016. The plaintiff further submitted that he intends to file an appeal against the order passed by this Court. Hence, lastly he prayed for stay on the order passed below Exh.5 till the order by appellate Court.

2. Ld. advocate for defendant no.3 contested the application. He filed his detailed written say at the overleaf of this application. In his say he submitted that the application is having no legal base. There is no provision.

3. Heard ld. advocate Smt.Sayyad for plaintiff and Ld. advocate Shri J.D. Devkar for the defendant no.3.

4. It is submitted by plaintiff that this Court is having ample power to stay its own orders vide Section 151 of the C.P.C. On the contrary defendant submitted that the only remedy available to the plaintiff is to file appeal against the order. Hence, no inherent powers are to be exercised in plaintiff's favour.

5. Perused overall proceeding of the case. This court has rejected the application below Exh.5 on 20.09.2016. On the very day the copy of order was given by the Court which is uploded on the same date in C.I.S. Hence, the contention of the plaintiff regarding requirement of handsome time for getting certified copies and for filing appeal against this order holds no water. Further, record shows that the plaintiff filed application for certified copies on 22.09.2016. It means no urgent measures were adopted by the plaintiff.

6. Further, this court has passed the order by giving ample opportunity and on hearing both parties on true merits. Further, the plaintiff is having the relief of filing the appeal and getting stay order by appropriate appellate Court. Hence, the plaintiff is not said to be remedy-less. Hence, I don not find any justifiable reason for staying the order passed on 20.09.2016 below Exh.5.

7. The inherent powers are exercised by the Court only in the interest of justice or to prevent the abuse of process of Law. At this juncture, I do not deem such necessity. Hence, application devoid any merit, deserve to be rejected. Hence, following order.

O R D E R

1. The application is rejected.
2. Cost in main cause.

Date: 23.09.2016

(**Mahesh D. Joshi**)
Joint Civil Judge Junior Division,
Karmala

CERTIFICATE

I affirm that the contents of this PDF file order is same word to word as per the original order.

(a) Name of the Stenographer :- Gajanand L. Sutar
(b) Court :- Jt. Civil Judge Jr. Div. & JMFC Court, Karmala
(c) Order signed by P.O.on :- 23.09.2016
(d) Order uploaded on :- 23.09.2016