

Order below Exh.8 in R.C.A. No. 31 of 2022
Yashoda Vs. Sanjay

This application has been filed for staying the execution of judgment and decree in Reg.C.S.No. 528/2014.

2. The appellants are the original defendants in Reg.C.S.No. 528/2014 which was filed by the respondents i.e. original plaintiffs against the appellants for specific performance of contract. The suit was decreed and the appellants are directed to execute the sale-deed in favour of the respondents. The appellants pray that the suit property is the ancestral property of the appellants. The agreement to sell was executed as security for the hand-loan that their ancestors had taken. There was no intention to execute the sale-deed. The suit land is in possession of the appellants. Wrong finding is given that the suit land is in possession of the respondents. The appellants have every chance of success in the appeal. So execution of the judgment and decree in Reg.C.S.No. 528/2014 be stayed. If the application is rejected, then irreparable loss will be caused to the appellants which cannot be compensated in terms of money. The appellants have prima facie case in their favour. So application be allowed and judgment and decree dated 07.01.2022 passed in Reg.C.S.No. 528/2014 by the Ld. II Jt. Civil Judge, J.D. Satara be stayed till final disposal of the appeal.

3. The respondents have objected the application vide say at Exh.14. It is the contention of the respondents that the judgment and decree passed in Reg.C.S.No. 528/2014 has been passed by giving proper reasons and findings. The agreement to sell was executed with the intention to execute the sale-deed. Most part of the consideration amount has been taken by the appellants and possession of the suit land has been given to the respondents. A lot of time will be required for execution of the judgment and order in Reg.C.S.No. 528/2014 because permission of the proper authority is to be taken. The suit land is to be separated from the remaining portion of the land and of the joint family property. So these respondents have no objection if stay is granted subject to condition that defendants take permission from the proper authority and partition the suit land till final disposal of the appeal. On the contrary, there is no merit in the appeal, so application be rejected. In the alternate, if the judgment and decree in Reg.C.S.No. 528/2014 is stayed then matter be expedited.

4. Heard Ld. Advocates for both the parties. They have argued as per their respective contentions.

5. Perused judgment and decree in Reg.C.S.No. 528/2014. It is a suit for specific performance and the appellants are directed to execute the sale-deed of the suit land in favour of

the respondents. If this judgment and decree is not stayed then decree will be executed and the appeal will be infructuous. So as fairly contended by the Ld. Advocate for the respondents, it would be justifiable to allow the application and expedite the matter. So I pass the following order.

ORDER

- 1 Application is allowed.
- 2 Judgment and Decree dated 07.01.2022 passed by the Ld. II Jt. Civil Judge, J.D., Satara in Reg.C.S.No. 528/2014 is hereby stayed till final disposal of this appeal.
- 3 The matter is expedited and both the parties are directed to co-operate for disposing the appeal expeditiously.
- 4 Appeal is expedited and is to be disposed of within one year.

Satara.
Date: 24.11.2022

(P.P. Abhang)
Ad-hoc District Judge 01, Satara.