

ORDER BELOW EXH. 26

Read an application and reply filed by the decree holder. Perused the record. Heard the learned counsel for applicant/decreed holder Adv. Shri. M.R. Kale. Judgment debtor and his counsel are absent when called.

2. The non-applicant/judgment debtor filed this instant application and submitted that, the non-applicant/judgment debtor filed an appeal and challenged the order passed in RCS no. 131/2013, which is pending before the Hon'ble Appellate Court. The Hon'ble District Court vacated stay order. Therefore, the applicant/decreed holder took disadvantage of the order of the District Court and attempted to implementation and execution of the order and decree in RCS no. 131/2013. The regular appeal has not been decided on the merit and therefore, the non-applicant/judgment debtor prayed to stay the present execution proceeding.

On the contrary, applicants/decreed holders filed the reply and opposed to this application on the ground that, on 28.03.2018, the Hon'ble District Court passed stay order in the Civil Appeal no. 35/2018. However, the stay order has been vacated on 15.07.2023. Now, non-applicant/judgment debtor can not obtain any order to stay the execution proceeding. The non-applicant filed this instant application beyond the provisions of law and therefore, prayed to reject the application.

4. On perusal of record, particularly, the order of Hon'ble District Court, dated 28.03.2018 in Regular Civil Appeal no. 35/2018, it appears that, the judgment and decree dated 24.03.2017 has been stayed. The Hon'ble District Court, also passed an order in the said civil appeal on 15.07.2024 and the stay which was granted for the execution of decree under appeal has been vacated and it is also directed to the respondent/applicants to proceed with the execution of decree. So, on perusal of the order dated 15.07.2024, it reveals that, the stay order has been vacated. Therefore, this Court can not stay the execution proceeding when the Hon'ble District Court, already vacated the order. I found no substance, in the application. Hence, I pass the following order.

ORDER

- 1) The application is rejected.
- 2) Parties to take note of it.

Vaduj
Date:14.08.2024

(D.D. Fulzele)
Civil Judge Sr.Dn., Vaduj.