

R.C.A. No. : 52/2018
CNR NO : MHWR010006632018
Bhaurao Jamunkar Vs. Rajashri Zade

ORDER BELOW Exh.5

1) The present application is filed for staying the judgment and decree passed in regular Civil Suit no. 271/2012. According, to the applicant he was defendant no.2 in regular civil suit no. 271/2012 when where in the suit of plaintiff the decree and she was declared on the owner and there is indeed possibility that on the strength of decree they the respondent may filed execution on the basis of judgment. Therefore, it is necessary to strengthly decree.

2) The application is opposed by the respondent on the ground that she has never asked for possession and, therefore, no execution proceedings claiming that relief can be filed on the contrary. It is alleged that even after passing of judgment. The present appellant and defendant no. 2 tried to disturb the peaceful possession of respondent no.1 over the suit field all in all. It is contended that there is not necessity for to stay the decree.

3) Heard, the respective counsels. Perused, the record it appears that to different appeals are filed against the judgment and decree passed in regular civil suit no. 271/2012. As it was passed against two different defendants all that a father and son this Court has already stay the decree in appeal which was filed by original defendant no.2 i.e. the sone of present appellant on the basis of status quo granted in the present appeal. since, there are factual and legal aspect in the present appeal and decree also passed against the present

appellant. It is necessary to stay the execution and operation of decree however, the considering the fact that both the parties are claiming possession. It is necessary to direct the parties to maintain status quo in respect of the property hence, the order:

Order

- i) Application is allowed.
- ii) The decree passed in R.C.S. No. 271/2012 is here by stayed till disposal of the appeal. However, the present appellant is also directed not to change the nature of the properties. Both the parties are directed to maintain status quo in respect of the suit property.

Date : 21.11.2024

(S.A.S.M.Ali)
Additiona SessionJudge,
Wardha.