

**Regular Civil Appeal No.98/2025**  
**Azad Ahemad Qazi Muntajib Qazi ..Vs.. Mohammad Ismail**  
**Ad-Interim Order Below Exh-05**  
**Dated : 01-12-2025.**

The appellants/original defendants No. 1 and 2 have filed the present application seeking a stay on the effect, execution, and operation of the judgment and decree dated 15.09.2025 passed in Special Civil Suit No. 43/2021 by the Civil Judge, Senior Division, Wardha, pending final adjudication of the appeal. Although notices were duly issued to the respondent/original plaintiff, he appears to be deliberately avoiding service, as is evident from the service report. Even today, no one has appeared on behalf of the respondent until 4:45 p.m. In these circumstances, learned counsel for the appellants has prayed for grant of ad-interim protection until disposal of the stay application.

2. The respondent instituted the suit seeking specific performance of contract, declaration, permanent injunction, and cancellation of the sale deed dated 11.02.2021 executed by original defendants No. 1-A to 1-F in favour of original defendant No. 2, registered as document No. 217/2021 in the office of the Sub-Registrar, Ashti. The learned Trial Court decreed the suit and directed the appellants to execute a sale deed in favour of the respondent within 30 days upon the respondent depositing the balance consideration amount of Rs.3,00,000/-. The Trial Court further cancelled the sale deed dated 11.02.2021 and granted a permanent injunction restraining the appellants from interfering with the respondent's possession of the suit property.

3. The learned counsel for the appellants contended that the Trial Court failed to properly appreciate the evidence placed on record and consequently arrived at an erroneous conclusion. It was argued that the Trial Court misinterpreted the relevant provisions of law and committed grave error in decreeing the suit in a manner contrary to the legal position and the evidence.

4. The appellants have challenged the impugned judgment and decree on several factual as well as legal grounds. If the execution and implementation of the judgment and decree are not stayed, the very purpose of filing the appeal would be rendered nugatory. Upon considering the material on record and the submissions advanced, it appears that the issues raised can be adjudicated only after hearing both parties on merits, and the disputed questions require comprehensive examination of evidence at the appellate stage. At this juncture, the appellants have established a prima facie case for grant of ad-interim protection, particularly in view of the respondent's continued avoidance of service despite repeated attempts. Therefore, until the stay application is finally decided, the impugned judgment and decree deserve to be stayed by imposing appropriate conditions upon the appellants. Hence, I pass the following order.

### **ORDER**

The execution of the decree passed in Special Civil Suit No.43/2021 dated 15.09.2025 is stayed, to the extent of execution and registration of the sale deed and cancellation of sale deed dated

11.02.2021, till the decision of stay application (Exh.5), on depositing the costs of the suit and on furnishing security by the appellants in the sum of Rs.25,000/- (Twenty Five Thousand Rupees only) before the Trial Court on or before 20.12.2025 for the due performance of the decree or order as may ultimately be binding upon them.

Dt/- 01.12.2025

[ H. B. Gaikwad ]  
Principal District Judge, Wardha.