

Order below Exh.5.

Applicants have filed this application to stay the execution and operation of the order of trial Court. Applicants submitted that they have preferred this appeal against the judgment of the trial Court. The applicants are having very good case on merit. They will get success in the appeal. Applicants are in possession of the suit property. There is standing crops in the suit field therefore prayed the execution proceeding and decree stayed otherwise appellants will be suffer irreparable loss.

2. Advocate for the respondents have filed their say and strongly opposed the application. Respondents submitted that appellants have no case on merit in this appeal. The suit for possession is decreed with costs. If the stay is granted then security in cash for execution of decree is required to be deposited before granting the stay. Therefore prayed appellants be directed to furnish security and to deposit the costs.

3. Heard advocate for the appellants and advocate for the respondents.

4. After gone through the record following points arise for determination and I have recorded my findings for the reasons stated below :

	Points	Findings
1	Whether appellants proved they have prima facie case to grant the stay ?	Yes
2	Who will suffer irreparable loss if stay is granted ?	Applicants.
3	What order ?	As per final order.

REASONS

5. I have gone through the submission of both the parties and record of the trial Court. Then I come to the conclusion that the trial Court

has granted the decree and defendants are directed to handover the vacant possession of the suit property to the plaintiffs. Therefore admittedly the possession of the suit property is with the defendants. Considering the possession of the appellants on the suit property and as per their say they have good case. Case is decided on merit and if injunction refused they will suffer irreparable loss. The standing crops is on the suit field. Considering all these reasons this Court come to the conclusion that if stay is not granted then the appellants will suffer irreparable loss. Possession is with the appellants, therefore appellants will suffer loss, there is no loss to respondents if stay is granted. Therefore the appellants have prima facie case. If stay is granted there is no irreparable loss to the respondents. In such circumstances stay can be granted. Therefore, finding for point no.1 and 2 are accordingly.

6. Considering the above reasons and findings application is liable to be granted. Hence following order.

ORDER

1. Application Exh.5 is hereby granted.
2. The order and decree passed by the trial Court in Spl.Civil Suit no.5/2019 is hereby stayed till final disposal of this appeal.

(Dictated and pronounced in open Court.)

(S.S.Ghorpade)

Date - 2/9/2023

Ad-hoc District Judge 2, Washim.

CERTIFICATE

I affirm that the contents of this P.D.F. file Order are same, word to word, as per the original Order

Name of the Stenographer : R.R.Bharad, Stenographer (Gr.1)

Name of the Court : Shri. S S.Ghorpade
Ad-hoc D.J.2 and A.S.J., Washim.

Date : 2/9/2023

Order signed by the : 2/9/2023
presiding officer on

Order uploaded on : 4/9/2023