

**RCS No.100/2021
Vijay Vs Pralhad
MHWS080014952021**

ORDER BELOW EXH. 45

This application moved behalf of plaintiff and prayed to stay the order passed below Exh.05 i.e. temporary injunction application.

02. Defendant resisted the application, filed say on overleaf.

03. Heard both side.

04. Learned Advocate behalf of plaintiff upon observations of the Hon'ble Bombay High Court in the case of Kranti Mohan Guruprasad Mehara Vrs. Fatechand Vasuram Behasl, reported in AIR 1982 BOMBAY 263. In which it is held that, "It cannot be underestimated that it is the privilege of a Court to pass an order one way or the other on merits, in accordance with law, yet a laudable principle is implicit ill the system to give a fair deal to each of the litigants who knocks the door of the Court and implicit therein is a further laudable principle that every litigant who is aggrieved by the order of the Court of the first instance has a legitimate right to move the higher Court to ask for redress and therefore, a reasonable opportunity should normally be given in that behalf to all the

litigants, provided of course the prayer on the face of it does not appear to be frivolous or vexatious. This principle is essential to be preserved so as to install a sense of confidence in the system of administration of justice.”

05. On 28.03.2022, this court has passed order below Exh.05 and rejected the application of temporary injunction of plaintiff. On second day of order this application is filed.

06. During the pendency of suit at Exh-17 this court passed order and directed to both parties to maintain th status-quo on suit property till next date, thereafter plaintiff has filed application to extension of status-quo order, it is allowed.

07. As per Order 41, Rule 5(2) of CPC, where an application is made for stay of execution of an appealable decree, the Court which passed the decree may on sufficient cause being shown order the execution to be stayed.

08. In the present matter, it is true that status-quo order has been passed at Exh-17 prior to decide application at Exh-05 filed by plaintiff. Thereafter, on 28.03.2022 application at Exh-05 is decided after given opportunity of hearing to both sides and it is rejected. The order passed below Exh-05 is not a executable decree or it is not subject or execution of an appealable decree. Further more there is no sufficient cause to

allow the application. Only granted status-quo before deciding application of temporary injunction is not sufficient ground to allow this application. Hence, Order.

ORDER

Application at Exh-45 is hereby rejected.

Date: 29.03.2022

(S. N. Gavali)

Jt. Civil Judge (J.D.), Risod

CERTIFICATE

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

Name of the Stenographer : **Rohan S. Koshti (L.G.)**

Name of court : Jt.C.J.J.D.& JMFC, Risod.

Date : 29.03.2022

Order signed by the
Presiding Officer : 29.03.2022

Order uploaded on : 29.03.2022