

BEFORE THE DISTRICT JUDGE 2, YAVATMAL.

Misc.C ivil Appeal No. 26/2025

Dinesh Thakare

VERSUS

State+1

Order passed below Exh.09

(Passed on 12th August 2025)

The parties are being referred to by their original nomenclature for the sake of mileage.

2. The original appeal is filed by plaintiff under Order 43 CPC whereby order passed below Exh.5 in regular civil suit No.42/25 is impugned. Through impugned order dated 02/07/2025 the learned trial court has rejected application seeking temporary injunction filed by plaintiff.

3. In miscellaneous appeal the plaintiff has even moved application Exh.5 seeking status-quo till disposal of appeal along-with stay to the proceeding of RCS No.42 of 2025. After hearing plaintiff counsel and going through record notice was issued both below Exh.1 as well as Exh.5 against the defendant -State. Notice is yet to be served.

4. Today on posted date the plaintiff counsel has moved application Exh.9 seeking order of status-quo. In support thereof he has filed application for tendering document on record. The same is allowed. Along-with list (Exh.8) there is filed notice dated 06/08/2025 which has been served on the plaintiff through defendant No.2 calling upon him to remove the encroachment

failing which action may be initiated against him by the defendant. The plaintiff counsel has submitted that in view of receipt of notice it is manifest that if status-quo order is not granted the appeal in itself would be rendered infructuous.

5. It is a matter of record that initial status-quo prayed by plaintiff to application Exh.5 was rejected and notice issued. Nevertheless today through notice filed along with Exh.8 it is illume that defendant No.2 is proceeding with further action as is required for getting encroachment removed. Thus, plaintiff argument that if action is undertaken the appeal would be rendered infructuous is found to hold force. In order to protect the property pending lis it is required that the order as adjured by the plaintiff is granted. This is required to be done at least till the respondents are served and appear before this court. Hence, I ordain as follows.

ORDER

1. Status-quo is granted in favour of plaintiff till appearance or hearing in regard to Exh.5 or till further order.

2. The plaintiff to comply requirement as envisaged under order 39 rule 3 in regard to service to defendant regarding the passing of above order.

Place:Yavatmal.
Date :12/08/2025.

(S.R.Sharma)
District Judge 2,
Yavatmal.