

ORDER BELOW EXH.2

(Dt.02-02-2024)

This application has been filed for grant of stay to the effect, operation and execution of the impugned judgment and decree dated 06/02/2023 passed in R.C.S. No.28/2017 by the learned Court of Civil Judge (Jr.Dn.), Maregaon till disposal of the final appeal.

2. Heard learned advocate for appellants and the respondent. Perused the application, say given overleaf on behalf of the respondent, impugned judgment and decree and the record of appeal.

3. Upon considering rival submissions and the nature of judgment and decree and the lis involved and as the appellants have assailed the impugned judgment and decree by way of statutory appeal provided under Section 96 of the Code of Civil Procedure 1908, it is necessary to stay the operation and the execution of the said judgment and decree particularly in view of its operative part. If the execution of impugned judgment and decree is allowed in view of its nature definitely grave prejudice and loss which can not be compensated in any terms would cause to the appellants. On the contrary, if the hearing of appeal is expedited, the interest of the decree holder is going to be protected.

4. In view of overall submissions by parties and considering all attending facts and circumstances and nature of lis in view of impugned judgment and decree involved, it is necessary to maintain

status-quo in respect of possession to protect the interest of appellants in filing appeal and in the interest of justice thereby granting stay to the impugned judgment and decree till final disposal of appeal. But at the same time, it is worth to consider the concerns raised by the respondent in respect of expeditious disposal of the appeal in view of submissions made in the light of nature of lis involved. In view of submissions made by the learned Advocate for the respondent, to meet the ends of justice it is necessary to issue certain directions for disposal of the appeal expeditiously. Hence, considering all attending facts and circumstances this application needs to be allowed by issuing certain and specific directions to the respondents in respect of expeditious disposal of the appeal on merits. Hence, as a result the following order:-

ORDER

1. The application (Exh.2) is allowed thereby the effect, operation and stay of the impugned judgment and decree is hereby stayed till final disposal of the appeal subject to following conditions.
 - i) Appellant and Respondent shall direct to advance their argument expeditiously after receipt of R & P of the learned Civil Court and shall cooperate for expeditious disposal of the appeal on merits by not taking adjournments on flimsy grounds and/or for undue reasons.
3. Both parties to take note.

Sd/-

(A. M. Deshmukh)
District Judge-2,
Kelapur

Dated : 02-02-2024.