

Regular Civil Appeal No.25/2018.
Murlidhar Vs. Ku. Geetabai.

ORDER BELOW EX.2

CNR : MHYA-08000192-2018

(Passed on 16th of February, 2019)

1) This is an application filed by the appellant for the stay of the execution of the impugned judgment and decree dated 30/07/2018 passed in RCS No.42/2012, a suit for declaration, possession and damages in respect of an agricultural land Gut No.34/2, area 1.22 H.R. at Zari passed by the learned Judge of the Court of Civil Judge (Jr.Dn.) Zari-Jamni.

2) Appellant (original defendant in the said suit) has contended that he has got a good case on the points of law and fact and as such every chance to succeed in the appeal. Hence, the decree passed for declaration, possession and damages in respect of an agricultural land Gut No.34/2, area 1.22 H.R. at Zari passed by the Learned Judge of the Trial Court is necessary to be stayed.

3) Respondent (original defendant) has opposed this application by filing her say. She has contended that the appeal filed by the appellant is devoid of merit. In case stay is granted the appellant be ordered to pay the amount of damages Rs.1,05,000/- to the respondent.

4) I have heard the arguments of the learned counsel for the appellant Adv. M.M.Chaudhary and learned counsel for the respondent Adv. A.D.Deshpande.

5) Considering the nature of the submissions made in the stay application, the apprehension raised by the appellant this is fit case for grant of stay. In case stay is not granted to the execution of the impugned judgment and decree the purpose of the present appeal is likely to be rendered fruitless.

6) The submission of the respondent for directing the appellant to pay the amount of damages Rs.1,05,000/- to the respondent in case of grant of stay is not tenable as prima facie said demand appears to be intrinsically linked to the declaratory relief granted in the impugned judgment and decree.

7) In view of the above discussion, following order is passed.

ORDER

1. Application Ex.2 is allowed.
2. The effect, operation and execution of Judgment and decree dated 30/07/2018 passed in RCS No.42/2012 by learned Civil Judge (Jr.Dn.), Zari-Jamni is stayed pending final disposal of this appeal.
3. Appellant shall file the paper book in the appeal within thirty days from the date of this order.
4. Inform the learned Trial Court accordingly.

(S.K.Tikhile),
District Judge-1,
Kelapur.

Date:16/02/2019.