

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

First Appeal No. 471 of 2017

Vijay Kumar Bhalkar S/o Late Madhukar Rao Bhalkar, Aged About 52 Years R/o 24/ 398, Nayapara Ward Near Kusum Tai Dabke School, Raipur District Raipur Chhattisgarh.

---- Appellant

Versus

1. Smt. Vasundhara Dumbhre W/o Manohar Rao Dumbhre, Aged About 44 Years R/o Satti Bazar, Raipur District Raipur Chhattisgarh. (Respondent No. 1/plaintiff)
2. Smt. Manda Bani, (Wrongly Typed As Madhu Bani), W/o Devrao Bani, Aged About 54 Years R/o Gandhi Ward, Near Cooperative Bank Vardha, Maharashtra. (Respondent / Defendant No. 2)
3. Smt. Saroj Bire, W/o Arun Bire, Aged About 49 Years R/o Infront Of Madhya Pradesh Housing Board Office, Shankar Nagar, Raipur District Raipur Chhattisgarh. (Respondent / Defendant No. 3)

---- Respondents

07/12/2017	Shri Manoj Paranjpe, Advocate for the Appellant. <u>I.A. No.01 of 2017.</u> We have heard the learned counsel for the Appellant in this application seeking stay of execution of the impugned decree which is one for recovery of possession with damages, including for future. An amount of Rs.54,000/- has been quantified as damages for possession till the date of the suit. From date of suit i.e. 17.2.1993, the Court below has fixed at the rate of Rs.100/- per day. The impugned decree was passed on 26.9.2017. Taking into consideration the rival contentions and the nature of the possession claimed by the Appellant/Defendant on the strength of the document

executed in his favour, we are of the view that ends of justice will be served if the enforcement of decree by dispossession is stayed on the condition that the Appellant deposits before the Court below the amount of Rs.54,000/- and the amount which have accrued at the rate of Rs.50/- per day till 26.9.2017, the date of the impugned decree and further amount from the next date of hearing till today at the rate of Rs.100/- per day and continues to deposit before the Court below at the rate of Rs.100/- per day on or before the first working day of every succeeding month commencing from January, 2018. All such amounts due till 31.12.2017 shall be deposited on or before the first working day of January, 2018, failing which this order will stand vacated automatically. If remittances as afore-directed are made, the dispossession of the Appellant will stand stayed for a period of six months. It is clarified that the decree holder will not be entitled to withdraw the amount which would be deposited by the Plaintiff, without obtaining orders from this Court in this regard.

Post on 22.2.2018.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sanjay Agrawal)
Judge