

bnHIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

FA No. 577 of 2018

Shiv Prasad **Versus** Ritesh Kumar and others

13.08.2019	Mr. Manoj Kumar Sinha, counsel for the appellant. Mrs. Uma Sahi, counsel for respondent/s. Mr. Sanjay Kumar Agrawal, GA for respondent/State. Heard on IA No.1 for stay of execution of judgment and decree. Learned counsel for the appellant would argue that the learned trial Court has committed illegality in granting decree in favour of defendants by allowing their counter claim, inasmuch as, the property which was subject matter of sale deed has been declared to be undivided joint family property of the family of the plaintiff and defendants (excluding purchaser) in a separate suit registered as Civil Suit No.26-A/2012 decided on 27.09.2018. Learned counsel for respondent/defendant opposes prayer by submitting that learned trial Court has clearly recorded a finding that the plaintiff has not led clear and clinching evidence to prove that the subject matter of joint family property as described in judgment dated 27.09.2018 includes the properties which are subject matter of sale deed executed in favour of defendant No.6 (counter claimant). After hearing learned counsel for the parties and perusing the judgment decree dated 22.10.2016 passed in Civil Suit No.21-A/2003 (Ex.P-1) and description of property as disclosed in sale deed

<i>Ajay</i>	executed in favour of purchaser/defendants, we are inclined to stay effect and operation of impugned judgment and decree, particularly keeping in view that the decree of partition has been granted by the learned trial in Civil Suit No.21-A/2003 vide judgment and decree dated 22.10.2016. Appeal be listed for final hearing. Sd/- (Manindra Mohan Shrivastava) Judge Sd/- (Vimla Singh Kapoor) Judge
-------------	---