



HIGH COURT OF CHHATTISGARH AT BILASPUR

FA No. 187 of 2025

**M/S PYARELAL AND SONS WHOLESALE *versus* NAGAR
PALIK NIGAM**

Order on Board

20/03/2026	Mr. Ravindra Sharma and Mr. Sahil Sahu, learned counsel for the appellant. Mr. Pankaj Agrawal, learned counsel for respondent No. 1 & 2. Mr. Ratnesh Kumar Agrawal, learned counsel for respondent No. 5. The appeal is admitted for hearing. Heard on I.A. No. 01/2025, an application under Order 41 Rule 5 read with Section 151 of the Code of Civil Procedure, 1908.

Earlier, notices were issued to the respondents on the said application. Respondent Nos. 3 and 4 have not appeared, whereas the other respondents are duly represented before this Court.

Learned counsel for the appellant submits that, subsequent to the judgment and decree dated 16.10.2024, the suit property, i.e., Shop-C mentioned in Schedule-A, has been handed over to defendant Nos. 3 and 4 on 24.12.2025 pursuant to a family settlement arrived at between the appellant and defendant Nos. 3 and 4. It is further submitted that, insofar as Shop-B mentioned in Schedule-A is concerned, the same continues to remain in possession of the appellant, who has been in peaceful possession thereof since 2005.

It is next submitted that defendant No. 5 has initiated execution proceedings of the impugned decree before the Executing Court, and the Executing Court is proceeding with the execution. It is contended that, in the event the decree is executed, the appellant will be dispossessed from Shop-B, and the appellant shall suffer irreparable loss which cannot be

compensated in any manner.

Per contra, learned counsel for respondent No. 5 submits that once Shop-C mentioned in Schedule-A has been handed over to defendant Nos. 3 and 4 after passing of the judgment and decree dated 16.10.2024, the same amounts to partial satisfaction of the decree and, therefore, the entire decree cannot be stayed at this stage. Reliance has been placed on ***K. Hydross and Another v. P.K. Hassan Ali (CO No. 54/2023)*** decided on 09.02.2024.

Learned counsel for respondent respondent No.5 also submits that the relief sought in the application is for staying the entire judgment and decree; however, since Shop-C has already been handed over to respondent Nos. 3 and 4, the effect and operation of the entire decree cannot be stayed.

In reply, learned counsel for the appellant submits that, due to inadvertence in I.A. No. 1 in the prayer clause, the prayer for stay of execution of entire decree has been sought for, whereas, the prayer of stay of decree should be for Shop-B only. Hence, he prays that the application i.e. I.A. No. 1 be treated for stay of decree of possession of Shop-B only.

I have heard learned counsel for the parties and perused the material available on record.

The appellant is in possession of the suit property since 2005. After the death of original plaintiff No. 2, namely Ashok Arora, compromise proceedings were initiated with respect to the joint family property. During the said period, the appellant handed over possession of Shop-C, as mentioned in Schedule-A of the cross suit, to defendant Nos. 3 and 4. The aforesaid fact has not been rebutted by defendant Nos. 3 and 4, who have not appeared before this Court. It is, therefore, not in dispute that the appellant handed over possession of Shop-C to respondent Nos. 3 and 4 solely on the basis of the said compromise.

In such circumstances, the handing over of Shop-C appears to be pursuant to a family settlement and cannot be treated as execution of the decree in question.

As far as Shop-B mentioned in Schedule-A is concerned, the same continues to remain in possession of the appellant since 2005. Considering that the appeal has already been admitted for hearing and the appellant is in possession of the

said property, a prima facie case is made out for grant of limited interim protection.

Accordingly, I.A. No. 01/2025 is allowed in part. It is directed that status quo, as it exists today, with respect to Shop-B mentioned in Schedule-A shall be maintained till the final disposal of this First Appeal.

The judgment relied upon by learned counsel for respondent No. 5 is distinguishable on facts and is not applicable at this stage.

List this case for final hearing in the weekly list in due course.

Sd/-
(BIBHU DATTA GURU)
Judge