

**RSA No.246 of 2016**

15.3.2017            Present:            Mr. Ajay Kumar, Sr. Advocate with Mr. Dheeraj K. Vashishta, Advocate, for the appellants.

Mr. Anoop Rattan, Advocate, for respondents No.1 (a) to 1 (e).

Mr. Jeewan Kumar, Advocate, for respondents No.2 & 3.

Admit on the following substantial questions of law :

1. Whether the findings of the learned First Appellate Court and the learned trial Court are a result of complete misreading of pleadings, evidence and the law as applicable to the facts of the case and particularly documents Ex.P-3 and Ex.P-1 to Ex.P-10 and as such palpably erroneous and illegal and if so, to what effect ?
2. Whether in the facts and circumstances of the case and in the face of the pleadings of the plaintiff and the evidence led by the parties the present suit was not maintainable and the Civil Court has no jurisdiction to try the same in view of the provisions of Section 134 and 171 of the H.P. Land Revenue Act, 1954 ?
3. Whether both the learned Courts below have grossly misinterpreted and misappreciated the evidence and the law as applicable to the facts of the case and particularly the question of limitation and if so, to what effect ?

**CMP No.4251 of 2016.**

The present application under Order 41 Rule 5 read with Sections 94, 107 and 151 of the Code of Civil Procedure, is maintained by the appellant, for staying the execution and operation of the impugned judgment and decree. No reply to the application has been filed nor intended to be filed.

Learned counsel appearing on behalf of the respondent/non-applicant has argued that as the respondent is dispossess from the decree for partition of the land and he has been granted a right for possession of the same, in addition to stay the execution and operation of the impugned judgment and decree. He has further argued that the parties are directed to maintain status quo qua the suit property including alienation in any form. Learned counsel appearing on behalf of the appellant has not objected for passing this order. So, it is ordered that the execution and operation of the impugned judgment and decree is stayed till further orders. However, it is made clear that the parties are directed to maintain status quo qua ownership, possession and alienation and not to create any encumbrance on the suit property, till further orders. The application stands disposed of.

**(Chander Bhusan Barowalia)**  
**Judge**

15<sup>th</sup> March, 2017  
(CS)