

| SL. No | Date | Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures | COURT'S OR JUDGES'S ORDERS |
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| | | | <p>FA No.187 of 2022 <u>Hon'ble Vivek Bharti Sharma, J.</u></p> <p>Mr. Siddhartha Singh, Advocate for the appellant.</p> <p>2. Mr. D.S. Mehta, Advocate for respondent no.1.</p> <p>3. Mr. Ravnit Malhotra, Advocate for respondent no.2.</p> <p>4. Learned counsel for the appellant would submit that he has moved a Modification Application IA No.5/2023 to modify the order dated 01.05.2023 and to stay the effect and operation of the judgment and decree dated 15.09.2022 or to stay the ongoing proceedings of the Execution Case No.6/2023 pending before Additional Senior Civil Judge, Tehri.</p> <p>He would submit that while decreeing the counter claim of the respondent nos.1 and 2/defendants the trial court has directed the appellant/plaintiff to pay the share of the profit and handover the possession of the suit property to the respondent nos.1 and 2. He would submit that the respondent nos.1 and 2 have filed the Execution Case No.6/2023 for execution of decreed counter claim and if the impugned judgment and decree is not stayed, then the purpose of filing the present second appeal would frustrate and the appeal would become infructuous.</p> <p>5. Per contra, learned counsel for respondent nos.1 and 2 would submit that allowing the modification application of the appellant would</p> |

amount to allowing the appeal. They, however, would submit that they undertake that the respondent nos.1 and 2 will not prosecute the execution proceedings in Execution Case No.6/2023 till the next date of hearing.

6. List this matter for final hearing on 08.12.2023.

7. Undertaking given by the counsel for respondent nos.1 and 2 is recorded.

8. Meanwhile, the appellant/plaintiff is directed to submit the accounts of the total receipts and the profits made from the property from the date of MoU till 31.10.2023 by way of affidavit with advance copy to the counsel for the respondent nos.1 and 2.

(Vivek Bharti Sharma, J.)
04.09.2023

Rajni