
(2025) 05 JH CK 1143
In the Jharkhand High Court
Case No : Second Appeal No. 47 Of 2024

Hemant Bhagat

APPELLANT

Vs

Ranjit Kumar and Others

RESPONDENT

Date of Decision : 01-05-2025

Acts Referred:

Citation : (2025) 05 JH CK 1143

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Amar Kumar Sinha, Rahul Kumar Gupta

Final Decision : Allowed

Judgement

Sanjay Kumar Dwivedi, J

1. Mr. Amar Kumar Sinha, the learned counsel appearing on behalf of the appellant submits that the Second Appeal has already been admitted on the substantial question of law by the order dated 27.02.2025. He submits that in the mean time, the learned executing court by order dated 26.03.2025 has directed to issue writ for execution of the decree and has also called for report of the Nazir. He submits that the appellant is in possession of the suit property having residential house and in view of that, the execution proceeding may kindly be stayed. He submits that the appellant is ready to argue the matter at an early date, as decided by this Court. He submits that identical was the situation before the Hon'ble Supreme Court in the case of Raja Ram Prasad Gupta v. Ramchandra Prasad and Others, (2008) 10 SCC 796. He submits that in that judgment it has been held in paragraph no.4 that if the suit property is residential shop and in which the appellants are residing and it is well settled that in case where the subject of the suit is a residential premises and the judgment debtor is residing in it, the prayer for stay is ordinarily granted and that can be refused only on the special reasons. He submits that in the present case, there is no special reason. On this ground he submits that till the disposal

of the second appeal, the execution case may kindly be stayed.

2. Mr.Gupta, the learned counsel appearing on behalf of the respondents opposed the prayer and submits that the appellant herein is a judgment debtor and he is bound to comply the decree. He further submits that the I.A may kindly be rejected.

3. Considering that the appeal is already admitted on substantial question of law and it is pointed out that the suit property is a residential house in which the appellant is residing and in view of the Hon'ble Supreme Court judgment in the aforesaid case, the Court finds that if the decree will be executed, the appellant herein will be put to irreparable loss.

4. In view of that prayer made in the said I.A, the I.A is allowed and the instant I.A stands disposed of.

5. Till the next date, there shall be stay of further proceeding in Execution Case No.3 of 2024 pending in the court of learned Civil Judge, Junior Division, Khunti.

6. Let this appeal be placed on 26.06.2025 under the appropriate heading.