

possession can be stayed during the pendency of the first appeal. Since respondent no. 3 is the original defendant no. 1 who has not preferred any first appeal, notice of this appeal is not necessary to be issued to respondent no.3. In view of the submissions made by both the counsels, the appeal is disposed of by consent by passing following order :

(i) The impugned order dated 10th January 2025 passed below Exhibit 5 in Regular Civil Appeal No. 37 of 2024 is quashed and set aside.

(ii) During the pendency of the Regular Civil Appeal No. 37 of 2024, if any possession warrant is issued for execution of the trial court's judgment and decree dated 21st October 2023 passed in Regular Civil Suit No. 375 of 2008, the same will remain stayed.

(iii) It is clarified that the proceeding for division of the property shall continue, however, actual handing over of physical possession pursuant to the trial court's decree shall remain stayed.

(iv) Appeal from order is disposed of in the above terms.

(v) In view of the disposal of the appeal, interim application is disposed of as infructuous.

(vi) This order should not be construed as any stay to the proceeding of the first appeal.

[GAURI GODSE, J.]