

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE SIDE JURISDICTION.

CIVIL APPLICATION NO.716 OF 2015
IN
FIRST APPEAL NO.993 OF 2014

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. S. M. Sabrad for the Applicant
Mr. G. H. Keluskar for the Respondent

CORAM : K. K. TATED, J.
DATE : APRIL 29, 2015

P.C.:

1. Heard. This Application is preferred by the Plaintiffs for withdrawal of the amount deposited by the Respondent Defendant.

2. In the present proceedings the Plaintiffs filed Special Civil Suit No.44/2001 for recovery of Rs.27,47,000/- from Defendant and for declaration that the resolution of the Defendant council dated 21/04/1997 is illegal, void and not binding upon them.

3. Considering the documents on record, the Trial Court by its judgment and decree dated 29/01/2014 declared that the resolution dated

21/04/1997 and letter dated 22/04/1997 issued by the Respondent Corporation is illegal and void. The Trial Court directed the Respondent Corporation to pay an amount of Rs.18 lacs to the Plaintiffs along with interest @ 14% p.a. from the date of filing of the suit till realisation of the entire amount. The learned counsel for the Applicant submits that Applicants are ready and willing to provide solvent security to the satisfaction of the Trial Court for withdrawal of the amount.

4. On the other hand, the learned counsel for the Defendant vehemently opposed the Civil Application. He submits that if entire amount is withdrawn by the plaintiff, nothing will survive in the present proceedings. He submits that the Defendants have good chance of success in the matter. He submits that if this court allows the Applicant to withdraw amount, then this Hon'ble Court be pleased to direct the plaintiffs to provide bank guarantee of any nationalized bank.

5. Considering the submissions made by the learned counsel for the Applicant and the averments made in the Application and as the Trial Court has passed the money decree, I am satisfied that the Applicant/ Plaintiff has made out a case

for allowing the present Civil Application. Moreover, the Plaintiffs agreed that they are ready and willing to provide solvent security to the satisfaction of the Trial Court.

6. Hence, the following order:

a) The Applicant/Plaintiff is entitled to withdraw entire decretal amount deposited by the Respondent/Defendant by furnishing solvent security to the satisfaction of the Trial Court within 4 weeks from today, subject to out come of the First Appeal.

b) Civil Application stands disposed off accordingly.

JUDGE