

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

**CIVIL APPLICATION NO. 1331 OF 2015
IN
FIRST APPEAL NO. 377 OF 2015**

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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Ms. Vaishali Choudhari for the applicant.
Mr. Vikram Sathaye with Sayed Mulani i/b Mulani & Co. for the respondent.

**CORAM : K. K. TATED, J.
DATED : 31/03/2015.**

PC.:

. Not on board. At the request of Advocate for the applicant, matter is taken on board for urgent orders.

2 This application is preferred by defendant for stay of operation and implementation of the Judgment and Decree dated 28.08.2014 passed by the 6th Joint, Civil Judge Senior Division, Thane in Special Civil Suit No. 472 of 2010 holding that plaintiffs are entitled to recover sum of Rs.17,10,739/- with 12% interest per annum from the date of filing of the suit till its realisation.

3 The learned Counsel for the applicant submits that the respondent plaintiff filed execution application. She submits that if respondent

recovered the entire decretal amount in execution application, nothing will survive in the present proceeding. She submits that in the interest of justice, this Hon'ble Court be pleased to stay operation and implementation of impugned Judgment and Decree dated 28.08.2014 till the admission of the First Appeal and or final disposal.

4 On the other hand, the learned Counsel Mr. Sathaye appearing on behalf of the respondent vehemently opposes the present Civil Application. He submits that the Trial Court has passed money decree, hence applicant has to deposit entire decretal amount. He submits that they already filed execution application for recovery of the said amount. He further submits that if this Hon'ble Court grant stay to the impugned Judgment and Decree dated 28.08.2014, this Hon'ble Court directs the applicant to deposit entire decretal amount in the Trial Court with permission to the respondent plaintiff to make appropriate application for withdrawal of amount.

5 Considering the submissions made by the learned Counsel for the applicant defendant and impugned Judgment and Decree passed by the Trial Court, I am satisfied that applicant has made out case for allowing the Civil Application. But, at the same time, they have to deposit the entire decretal

amount in Trial Court.

6 Hence, the following order:

a) The operation and implementation of impugned Judgment and Decree dated 28.08.2014 passed by the 6th Joint Civil Judge, Senior Division, Thane in Special Civil Suit no. 472 of 2010, is stayed on condition that applicant to deposit the entire decretal amount with interest and costs in the Trial Court within four weeks from today, failing which civil application shall stand dismissed without referring back to the court .

b) If amount is not deposited within stipulated time as stated herein above, respondent plaintiff is entitled to execute the decree according to law.

c) If amount is deposited within stipulated time as stated herein above, liberty is granted to the respondent plaintiff to prefer an appropriate application for withdrawal of amount and that application will be decided on its own merits.

d) Civil Application is disposed of accordingly.

(K.K.TATED, J.)