

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

CIVIL APPLICATION NO.1765 OF 2015
IN
FIRST APPEAL (ST) NO.11822 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. Deepa Motagi i/b. Respondent Juris for the Applicant

CORAM : K. K. TATED, J.

DATE : MAY 8, 2015

P.C.:

1. Mentioned. Not on board. At the request of the learned counsel for the Applicant matter is taken on board for urgent orders.

2. This Application is for stay of the operation and implementation of the impugned judgment and decree dated 26/08/2104 passed by the 8th Jt. Civil Judge, Senior Division, Pune in Special Civil Suit No. 1934/2011.

3. The learned counsel for the Applicant submits that the Respondent Plaintiff filed Execution Application No.44/2015 for recovery of the awarded amount. She submits that if entire

amount is recovered by the Respondent in Execution Application nothing will survive in the present proceedings. She submits that the Trial Court erred in coming to the conclusion that the Respondent Plaintiff is entitled to compensation of Rs.4,74,120/- with 6% p.a. interest. She submits that the Trial Court has not considered the negligence on the part of the driver of the offending vehicle. She submits that because of mistake on the part of the Driver of the offending vehicle, the accident occurred and Respondent Plaintiff suffered damages. She submits that the Applicant has good chance of success in the matter. In the interest of justice, this Hon'ble Court be pleased to stay the impugned judgment and decree. The learned counsel for the Applicant submits that she received instructions from the Insurance Co. that they are ready and willing to deposit the entire decretal amount within 6 weeks from today.

4. Considering the submission made by the learned counsel for the Applicant and the averments made in the Civil Application, I am of the opinion that the Applicant has made out a case for allowing the Civil Application. At the same time, the Respondent-Claimant is entitled

withdraw 25% of the awarded amount without furnishing any security, subject to out come of the present appeal.

5. Hence, the following order.

a. The operation and implementation of the impugned judgment and decree dated 26/08/2014 passed by the 8th Jt. Civil Judge, Senior Division, Pune in Special Civil Suit No. 1934/2011 is stayed, subject to the Applicant depositing the entire decretal amount with costs, interest, if any, in the Trial Court within 6 weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

b. If the amount is not deposited within stipulated time as stated hereinabove, the Respondent Plaintiff will be entitled to execute the decree as per law.

c. If the amount is deposited within stipulated time as stated hereinabove, the Respondent-Plaintiff is entitled withdraw 25% of the decretal amount without furnishing any security, subject to out come of the present appeal.

d. The Respondent-Plaintiff is entitled to file an appropriate Application for withdrawal of the remaining amount, if they so desire, which will be decided on merits.

e. The Tribunal is directed to invest the remaining amount in fixed deposit account of any Nationalized Bank, initially for a period of 1 years, which shall be renewed from time to time, till hearing and final disposal of the present appeal.

f. Civil Application stands disposed of accordingly.

JUDGE