

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

CIVIL APPLICATION NO.3626/2013
IN
FIRST APPEAL NO.1310/2013

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. Mayur Khandeparkar a/w. Abhijeet C. Mahadevkar for the Applicant
Mr. Tejas Dande i/b. Tejad Dande & Associates for the Respondent No.1.
M/s. Dhruve Liladhar & Co. for Respondent Nos.2 and 3.
Ms. Trupti Shetty & Karishma Pandya for Respondent Nos.4 to 9.

CORAM : K. K. TATED, J.
DATE : JULY 2, 2015

P.C.:

1. Heard. This Application is preferred by Defendant Nos.1, 3, 4 and 5 for stay of the impugned judgment and decree 22/02/2013 passed by the Civil Judge, Senior Division, Pune in Special Civil Suit No.260/1999 holding that Respondent Plaintiff is entitled to Rs.21,51,000/- with 12% p.a. interest by way of compensation and Rs.3,66,760/- with 9% p.a. interest for refund of earnest money paid by the Plaintiff.

2. The learned counsel for the Applicant submits that the Trial Court erred in coming to the conclusion that Respondent Plaintiff is entitled to compensation to the tune of Rs.21,51,000/-. He further submits that apart from the compensation, the Trial Court also held that the Plaintiff is entitled to 12% p.a. interest on the amount of compensation from the date of filing of the suit till realisation. He further submits that the Trial Court, in paragraph 32 of the impugned order held that the Plaintiff have to spent Rs.21,50,000/- for the flat having same area as per market value on the date of passing the impugned order. He further submits that if the compensation awarded as per the market value on the date of passing the decree, there is no question of directing the Applicant to pay the interest on the date of suit. Hence, the judgment and decree passed by the Trial Court is required to be stayed till hearing and final disposal of the First Appeal.

3. On the other hand, the learned counsel for the Respondent No.1 Plaintiff submits that they have no objection if decree dated 27/02/2013 passed by the Trial Court is stayed subject to the Applicant depositing the decretal amount in the Trial Court.

4. Considering the submissions made by the learned counsel for the Applicant and the averments made in the Civil Application, following order is passed:

a. The operation and implementation of the impugned judgment and decree dated 22/02/2013 passed by the Civil Judge, Senior Division, Pune in Special Civil Suit No.260/1999 is stayed on following terms:

i) The Applicant to deposit sum of Rs.21,51,000/- with 12% p.a. interest from the date of decree ie. 22/02/2013 in the Trial Court within 8 weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

ii) In addition to the amount as stated herein above, the Applicant to deposit sum of Rs.3,66,760/- with 9% p.a. interest from 20/07/1994 in the Trial Court, within 8 weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

b) If the amount is deposited within stipulated time as stated herein above, the Respondent Plaintiff is entitled to withdraw sum of Rs.3,66,760/- with interest @ 9% p.a. without

furnishing any security, subject to outcome of the First Appeal.

c) Liberty granted to the Plaintiff to file an appropriate Application for withdrawal of the further amount, if they so desire, which will be decided on its own merits.

d) The issue of court fees will be decided as and when the Plaintiff files an Application for withdrawal of the amount.

e) The Trial Court is directed to invest the amount in a fixed deposit account of any Nationalized bank, initially for a period of one year which will be renewed from time to time till further orders.

f) Civil Application stands disposed off accordingly.

JUDGE