

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.2282 OF 2012
IN
FIRST APPEAL NO.193 OF 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.Rakesh Singh i/b M/s.M.V.Kini and Co. for
the applicants

Mr.Omkar Warange for the respondents

CORAM : K.K.TATED, J.
DATED : 17/06/2015

PC:

- 1 Heard the learned counsel for the parties.
- 2 This application is preferred by defendant no.1 for stay of the operation and implementation of the impugned decree dated 17.9.2011 passed by Civil Judge, Senior Division, Palghar in S.C.Suit No.177 of 2006.
- 3 The learned counsel for the applicant submits that pursuant to the order passed by this court on 5.8.2013, they deposited 75% amount in the Trial Court. He further submits that in the present proceeding, as per the order passed by this court, respondents defendant nos.2 to 5 deposited 25%

amount in the Trial Court. Statement is accepted.

4 The learned counsel for the respondents claimants submits that they preferred Civil Application No.1436 of 2015 for withdrawal of the amount. That application be decided on its own merits.

5 Considering the submissions made by the learned counsel for the applicant and the averments made in Civil Application, I am satisfied that the applicant has made out a case for allowing Civil Application. Hence, following order:

(A) Civil Application is allowed in terms of prayer clause (a) which reads thus:

“(a) Pending the hearing and final disposal of the above Appeal, the operation, effect, implementation and execution of the Judgment and Decree dated 17th September, 2011 passed by Civil Judge, Senior Division, Palghar in Special Civil Suit No.177 of 2006 may kindly be stayed.”

(B) Civil Application No.1436 of 2015 preferred by respondents for withdrawal of amount be decided on its own merits.

(C) Tribunal is directed to invest the amount in fixed deposit of any nationalised bank

initially for a period of one year and same be continued till the hearing and final disposal of the First Appeal.

(D) Civil Application is disposed of accordingly.

(K.K.TATED, J.)