

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

**CIVIL APPLICATION NO.1223 OF 2015
IN
SECOND APPEAL NO.140 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.Vijay Killedar for the applicant

None for the respondent

CORAM : K.K.TATED, J.
DATED : 19/08/2015

PC:

- 1 Leave to amend. Amendment be carried out during the course of the day.
- 2 Heard the learned counsel for the applicant.
- 3 Though respondents are duly served in Second Appeal, no one appeared on behalf of them when the matter was called out.
- 4 This application is preferred by defendant for stay of the operation and implementation of the judgment and decree dated 10.4.2008 passed by Civil Judge, Junior Division, Jath, Tal.Jath, Dist.Sangli in Regular Civil Suit No.65 of 2005 by which the Trial Court directed applicant defendant to pay the amount of Rs.88,287/- to the respondent plaintiff.

5 Second Appeal is already admitted by this court on 24.6.2014.

6 Considering the submissions made by the learned counsel for the Applicant and the averments made in the Application, I am satisfied that the Applicant has made out a case for allowing the present Civil Application. This being a money decree, applicant to deposit entire decretal amount in the Trial Court within 8 weeks from today, failing which Civil Application shall stand dismissed without referring back to the court.

7 As no one appeared on behalf of respondent plaintiff, liberty granted them to prefer appropriate application if they so desire for withdrawal of the amount and that application be decided on its own merits. Hence, following order is passed:

(a) Operation and implementation of the judgment and decree dated 10.4.2008 passed by Civil Judge, Junior Division, Jath, Tal.Jath, Dist.Sangli in Regular Civil Suit No.65 of 2005 is stayed on the condition that applicant to deposit entire decretal amount with interest and cost in the Trial Court within eight 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 hereinabove, respondents plaintiffs are entitled to execute the decree according to law

for recovery of the amount.

(c) If amount is deposited within stipulated time as stated hereinabove, Trial Court is directed to invest the same in fixed deposit of any nationalised bank initially for a period of one and half year and same be continued till the hearing and final disposal of the Second Appeal.

(d) Liberty granted to the respondent plaintiff to prefer appropriate application if they so desire for withdrawal of amount and that application be decided on its own merits.

(e) Civil Application is disposed of accordingly.

(K.K.TATED, J.)