

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

**CIVIL APPLICATION NO. 891 OF 2015
IN
FIRST APPEAL NO. 261 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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Mr. A.G. Damle, Senior Advocate, i/b Rupesh Lanjekar, for Appellant.

Mr. Pravin D. Bagade, i/b S.K.C. Legal, for Respondent No.1.

CORAM: K.K.TATED, J.

DATED : 27/02/2015

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

2. Heard learned senior counsel Mr. A.G. Damle, for Applicant and Mr. Pravin D. Bagade, for Respondent No.1.

3. This application is preferred by Defendant Nos. 1(a), 1(b) and 1(c) for stay of operation and implementation of Judgment and Decree dated 9th May, 2014 passed by the City Civil Court, Greater Bombay, in Suit No. 8122 of 1999 (High Court Suit No. 218 of 1999) holding that Applicants are liable

to pay a decretal amount of Rs.35,23,889/- with 10% interest to Respondent/Plaintiff. Learned senior counsel for Applicant submits that the Respondent/Plaintiff filed an execution application No. 682 of 2014. He submits that if entire amount is recovered by Respondent/Plaintiff in execution application No. 682 of 2014, nothing will survive in First Appeal. He further submits that Applicants are ready and willing to deposit the entire amount including interest and cost in trial Court within four weeks from today. The statement is accepted.

4. Considering submission made by the learned senior counsel and averments made in Civil Application I satisfied that Applicant has made out the case for allowing Civil Application.

5. Liberty granted to the Respondent/Plaintiff to take out appropriate application if they so desire for withdrawal of the decretal amount. That application shall be decided on its own merits. Hence following orders:

- (i) Operation and implementation of impugned Judgment and Decree dated 9th May 2014 passed by the City Civil Court, Greater Bombay in Suit No. 8122 of 1999 (High Court Suit No. 218 of 1999) is stayed

on condition that the Applicant to deposit the entire decretal amount including the interest and cost, if any, in trial Court within four weeks from today, failing which the Civil Application shall stand dismissed without referring back to the Court.

(ii) If Applicant failed to deposit the amount in stipulated time as stated hereinabove, the Respondent/Plaintiff can proceed with execution application No. 682 of 2014 according to law.

(iii) If amount is deposited within stipulated time as stated hereinabove, the Respondent/Original Plaintiff is permitted to prefer appropriate application if they so desire for withdrawal of amount and that Application will be decided on its own merits.

(iv) Civil Application is disposed of accordingly.

(K.K.TATED, J.)