

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

CIVIL APPLICATION NO.4746 OF 2013
IN
FIRST APPEAL NO.1849 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. Kapil Shetye for the Applicant

CORAM : K. K. TATED, J.
DATE : MARCH 25, 2015

P.C.:

1. Heard the learned counsel for the Applicant.
None for the Respondent though served.

2. This Application is preferred by the Defendant for stay of the decree dated 30/05/2013 passed by the Bombay City Civil Court, Mumbai in Summary Suit No.9098/1999 (High Court Summary Suit No.4420/1999) holding that the Applicant is liable to pay sum of Rs.55,200/- to the Respondent Plaintiff with 24% on principal amount of Rs.40,000/- from the date of suit till realisation. The learned counsel for the Applicant submits that as per order dated 17/07/2014 passed by this court (Coram : R. G. Ketkar, J.) they deposited the entire decretal amount in the Trial Court. Statement is accepted.

3. The learned counsel for the Applicant submits that pending the hearing and final disposal of the appeal, this Hon'ble Court be pleased to stay the operation and implementation of the decree dated 30/05/2013 passed by the Bombay City Civil Court, Mumbai in Summary Suit No.8252/1999. He submits that, if stay is not granted, the Applicant will suffer irreparable loss, harm and injury. He submits that if the entire decretal amount is withdrawn, nothing will survive in the present appeal.

4. 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. At the same time, as none appeared for the Respondent – Plaintiff, liberty granted to them to prefer an appropriate Application for withdrawal of the amount, if they so desire, which will be decided on its own merits

5. Hence, the following order:

i) Civil Application is allowed in terms of prayer clause (a) which read thus:

(a) That pending the final hearing & disposal of First Appeal, order of the Trial

Court dated 30/05/2013 passed in Summary Suit No.9098/1999 may be stayed.

ii) The Trial Court is directed to invest the entire decretal amount in a fixed deposit account of any Nationalized Bank, initially for a period of one year and the same shall be renewed from time to time till hearing and final disposal of the appeal.

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

d) Civil application stands disposed off accordingly.

JUDGE