

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

**CIVIL APPLICATION NO. 1526 OF 2014
IN
SECOND APPEAL (ST.) NO. 30069 OF 2014**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Mr. A. Davar with Nirav Shah for the applicant.

**CORAM : K. K. TATED, J.
DATED : 26/03/2015.**

PC.:

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

2 This application is preferred by the defendant no.1 for stay of operation and implementation of Judgment and Decree dated 05.07.2012 passed by the Civil Judge, Senior Division, Pune in Special Civil Suit No. 1479 of 2009 holding that respondent plaintiff is entitled sum of Rs.5,50,000/- with 6% interest by way of damages and the same decree confirmed by the Appellate Court by decree dated 26.03.2014.

3 The learned Counsel for the applicant submits that the respondent plaintiff filed Execution application no. 107 of 2012 for recovery of the

entire amount. He submits that defendant no.2 Municipal Corporation of the City of Pune also preferred Second Appeal no. 600 of 2014. In that Second Appeal, they preferred Civil Application no. 1432 of 2014 for stay of operation and implementation of impugned decree passed by the Trial Court. He submits that this Court (Coram : K. K.Tated, J) by order dated 11.11.2014 stayed the further hearing in Special Darkhast No. 107 of 2012 on condition that Respondent no.3 Municipal Corporation of the City Pune should deposit the entire decretal amount. He further submits that even in the present proceeding, Maharashtra State Electricity Distribution Co. Ltd. deposited the Rs. 4,11,000/- in the Trial Court. He submits that in the interest justice this Hon'ble Court be pleased to restrained the respondent plaintiff from withdrawing the said amount till the hearing and final disposal of the present Civil Application.

4 Considering the submissions made by the learned counsel for the applicant, the averments made in Civil Application and the order dated 11.11.2014 in Civil Application no. 1432 of 2014 in Second Appeal no. 600 of 2014, I am of the opinion that the respondent-plaintiff can withdraw the sum of Rs.1,25,000/- each without furnishing any security and rest of the amount to be invested in the

fixed deposits of any nationalised bank initially for the period of one year and same to be continued till the hearing and final disposal of the second appeal.

5 Hence, the following order :

a) The operation and implementation of impugned Judgment and Decree dated 05.07.2012 passed by the Trial Court and confirmed by the Appellate Court by decree dated 26.03.2014, is stayed.

b) The respondent nos. 1 & 2 Mr. Dilip Mahadev Marne and Mrs. Babai Mahadev Marne original plaintiffs are entitled to withdraw sum of Rs.1,25,000/- each without furnishing any security.

c) Trial Court is directed to invest the remaining amount in fixed deposit in fixed deposit in any nationalised bank initially for the period of one year and same to be continued till the hearing and final disposal of the Second Appeal.

d) Liberty granted to the respondents original plaintiffs to prefer appropriate application, if they so desire, for withdrawal of remaining amount and that application will be decided on its own merits.

e) Civil Application is disposed of accordingly.

(K.K.TATED, J.)