

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

**CIVIL APPLICATION NO.5121 OF 2011
IN
FIRST APPEAL NO.2392 OF 2011**

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.Sudam Kale i/b Mr.S.K.Shinde 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 nos.2 to 5 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 in the present proceeding, respondent Maharashtra State Electricity Distribution Company Ltd. also preferred Appeal and Civil Application for stay. In that application, this court directed them to deposit 75% of decreetal amount. He submits that in view of the order passed by this court in application preferred by Maharashtra State Electricity Distribution Company Ltd., this

Hon'ble Court be pleased to grant stay in terms of prayer clause (a) of Civil Application.

4 The learned counsel for the respondents claimants submits that they preferred Civil Application No.1092 of 2015 for withdrawal of the amount. That application be decided on its own merits.

5 It is to be noted that in the present proceeding, the Trial Court by impugned decree dated 17.9.2011 directed applicants/defendants to pay sum of Rs.12.0 lacs with 6% interest by way of compensation to the plaintiff. In Appeal preferred by Maharashtra State Electricity Distribution Company Ltd. this court directed them to deposit 75% of the decretal amount. Considering these facts, I am of the opinion that the remaining amount i.e. 25% of decretal amount be deposited by applicant nos.2 to 5. That amount be deposited in Trial Court within eight weeks from today. Hence, following order:

(A) Operation and implementation of the the Judgment and Decree dated 17.9.2011 in Special Civil Suit No.177 of 2006 passed by passed by Hon'ble Civil Judge (S.D.) Palghar, District Thane is stayed against applicants on condition that they have to deposit 25% decretal amount along with interest and costs, if any, in Trial Court within eight weeks from today, failing which Civil Application shall stand dismissed without referring

back to the court.

(B) Civil Application No.1092 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.)