

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

**CIVIL APPLICATION NO.5118 OF 2011
IN
FIRST APPEAL NO.2391 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 applicant
Mr.Omkar Warange for the respondent

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.178 of 2006.
- 3 The learned counsel for the applicant submits that pursuant to the order passed by this court on 5.8.2013, they deposited 25% amount in the Trial Court. He further submits that remaining amount is deposited by respondent no.6, The Maharashtra State Electricity Board in the Trial Court.
- 4 Statement is accepted.

5 The learned counsel for the respondents claimants submits that they preferred Civil Application No.1091 of 2015 for withdrawal of the amount. That application be decided on its own merits.

6 Considering the submissions made by the learned counsel for the applicant and the averments made in Civil Application, I am satisfied that the applicant has made out a case for allowing Civil Application. Hence, following order:

(A) Civil Application is allowed in terms of prayer clause (a) which reads thus:

“(a) Pending the hearing and final disposal of the present First Appeal, execution, operation and implementation of the impugned judgment and order dated 17/0/2011 in Special Civil Suit No.178 of 2006 passed by the Hon'ble Civil Judge (S.D.) Palghar, District Thane may be stayed.”

(B) Civil Application No.1091 of 2015 preferred by plaintiff for withdrawal of amount be decided on its own merits.

(C) Tribunal is directed to invest entire 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.)