

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (CAF) NO.1045 OF 2014  
IN  
FIRST APPEAL NO.415 OF 2014

Jairam Phosphates Pvt. Ltd.

-vs-

Union of India & Ors.

-----  
Office notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and Registrar's orders.

Court's or Judge's Orders.

-----  
Shri Avinash Gharote, Advocate for appellant.  
Shri R. G. Agrawal, Advocate for respondent Nos.1 to 3.

**CORAM : A.S.CHANDURKAR, J.**

**DATE : APRIL 21, 2015**

This application has been moved by the appellant under the provisions of Order 41 Rule 5 of the Code of Civil Procedure seeking stay to the decree passed by the trial Court dated 30/12/2013.

The respondents are the original plaintiffs who had filed suit for recovery of Rs.48,86,481/-. Said claim is on account of dues towards transportation of various goods and freight charges. In support of the claim before the trial Court, the plaintiff had examined a Commercial Inspector who had been cross examined by the defendant No.2. In his deposition he stated that the original documents of which copies were filed on record had not been brought before the Court. He further stated that the Railway Receipts in respect of the freight charges or the debit note was not filed on record. Similarly the circular on the basis of which the dues were claimed were also not placed on record. The trial Court while decreeing the suit observed that the deposition of PW-1

was un-challenged and hence granted decree of an amount of Rs.46,11,481/-.

Considering the nature of evidence on record, a case for staying the execution of the decree has been made out. The decree passed by the trial Court shall remain stayed during pendency of the First Appeal subject to appellant depositing 50% of the decretal amount in this Court within period of twelve weeks from today. The amount if deposited, shall be invested in Fixed Deposit.

Civil application is disposed of.

**JUDGE**