

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****SECOND APPEAL NO. 310 OF 2015****ALONGWITH****CIVIL APPLICATION NO.705 OF 2015****IN****SECOND APPEAL NO. 310 OF 2015****ALONGWITH****CIVIL APPLICATION NO.1666 OF 2015****IN****SECOND APPEAL NO. 310 OF 2015****Adinath Sahakari Sakhar Karkhana Ltd. Appellant****VERSUS****M/s.Trans India Agro Enterprises Respondent**

Mr.Surel Shah for the Appellant.

Mr.Vikramsingh Parmar for the Respondent.

CORAM : R.D. DHANUKA, J.**DATED : 3rd FEBRUARY, 2016****P.C.**

Learned counsel appearing for the parties have agreed that no reasons are required to be rendered for disposal of this second appeal. By consent of parties, following order is passed :-

- (a) Impugned order dated 30th March, 2015 passed by the lower appellate court in Misc Civil Application No. 85 of 2013 (Ex. No.19) is set aside on the condition that the applicant deposits the entire decretal amount before the Principal District Judge, Sangli. The appellant has already deposited an amount of Rs.3,78,239/-. If there is any short-fall, the

appellant shall deposit the short-fall amount within two weeks from today. Upon deposit of the short-fall amount if any, the respondent shall be allowed to withdraw the entire amount upon the respondent furnishing an undertaking before the lower appellate court that in the event of the appellant succeeding in the appeal, the respondent would return the said amount with such interest as the lower appellate court may direct.

(b) The learned counsel appearing for the respondent on instruction before this court has rendered such undertaking which is accepted by this Court. Such undertaking shall be filed in writing before the lower appellate court before withdrawing such amount.

(c) The delay in filing the appeal is condoned.

(d) The lower appellate court shall hear the appeal filed by the appellant on its own merits and shall dispose of the same expeditiously.

(e) The lower appellate court shall make an endeavour to dispose of the appeal within six months from today.

2. The parties as well as lower appellate court shall act on the authenticated copy of this order.

3. Second appeal is disposed of in the aforesaid terms. No order as to costs. In view of disposal of the second appeal, civil applications do not survive and are accordingly disposed of.

4. The appellant shall also pay cost of Rs.10,000/- to the respondent within two weeks from today. It is made clear that the lower appellate court shall hear the appeal of the appellant only on production of the receipt of payment of Rs.10,000/- towards cost.

[R.D. DHANUKA, J.]