

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

CIVIL APPLICATION NO.2937/2014
IN
FIRST APPEAL (ST) NO. 16020/2014

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. Rupesh T. Padwal for the Applicant
Mr. B. K. Bali i/b. B. K. Bali & Associates for the Respondent No.1.

CORAM : K. K. TATED, J.
DATE : FEBRUARY 22, 2016

P.C.:

1. Heard. This Application is made by the Defendants for stay of the operation and implementation of the impugned judgment and decree dated 08/01/2014 passed by the Bombay City Civil Court, Mumbai in S.C.Suit No.6476/2004 (High Court Suit No.827/2004) holding that the Respondent Plaintiff is entitled to recover a sum of Rs.13,13,651.51 with 18% p.a. interest from the Appellant Defendants.

2. The learned counsel for the Applicant after taking instructions from his client, who is present in court, makes a statement that the Applicant is ready and willing to deposit the entire decretal

amount in the Trial Court within 6 weeks from today. Undertaking is accepted.

3. The learned counsel for the Applicant submits that pending the hearing and final disposal of the appeal, the operation and implementation of the impugned judgment and decree be stayed. He submits that if entire decretal amount is recovered in the Execution Application nothing will survive in the present proceedings.

4. On the other hand, the learned counsel for the Plaintiff vehemently opposed the Civil Application. He submits that liberty may be granted to the Plaintiff to make an appropriate Application for withdrawal of decretal amount.

5. Considering the submissions made by the learned counsel for the Applicant and as the Applicant is ready and willing to deposit the entire decretal amount in the Trial Court within 6 weeks from today, I am satisfied that the Applicant has made out a case for allowing the present Civil Application.

6. Hence, the following order:

a. The operation and implementation of the impugned impugned judgment and award dated

08/01/2014 passed by the Bombay City Civil Court, Mumbai in S.C.Suit No.6476/2004 is stayed till hearing and final disposal of the appeal, on condition that the Applicant - Defendant to deposit the entire decretal amount with interest and costs, if any, within 6 weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

b. If the entire awarded amount is not deposited within stipulated time as stated hereinabove, the Respondent Plaintiff are entitled to execute the award as per law.

c. The Trial Court is directed to invest the entire decretal amount in a fixed deposit account of any Nationalized Bank, initially for a period of one year and same shall be renewed from time to time till hearing and final disposal of the appeal.

d. Liberty granted to the Respondent Plaintiff to make an appropriate Application for withdrawal of decretal amount, if they so desire, which will be decided on its own merits

e. Civil application stands disposed off accordingly.

JUDGE