

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 4324 OF 2016
IN
FIRST APPEAL (ST.) NO. 16451 OF 2016

Punjab National Bank ... Applicant/Appellant.
V/s.
The Cotton Textiles Export Promotion
Council ... Respondent.

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Mr. Pankaj Vijayan i/b. Mr. Vishwas R. for the Applicant/Appellant.
Mr. Karl Tamboli a/w Ms. Poorva Garg & Mr. Parikshit Barpiyari i/b.
Mulla & Mulla And Craigie Blunt & Caroe for the Respondent.
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CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.
DATE : OCTOBER 17, 2016.

P.C.:

1. Heard learned counsel for the parties.
2. This Application is filed by the Applicant/Appellant seeking stay to the execution of the Decree dated 11.01.2016 passed by the City Civil Court, Mumbai, in Summary Suit No.7467 of 2005.
3. According to the learned counsel for the Applicant, the present Appeal involves the legal issue which is subjudice before the Hon'ble Supreme Court and the Appellant is having a good case on merits. However, during pendency of the Appeal, if the Decree passed by the trial court is executed, the Appeal will become infructuous. Further, it is submitted that the attachment warrant is already issued against the movable and immovable property of the Appellant.

4. In view of the fact that this is a money Decree, needless to state that the Appellant cannot get the stay order unless he deposits the entire decretal amount as awarded by the trial court. The decretal amount comes to Rs.4,10,000/- as the principal amount, with interest at the rate of 12% thereof from the date of filing of the Suit till realization of the amount.

5. The Civil Application is allowed. There shall be stay to the execution of the Decree dated 11.01.2016 passed by the City Civil Court, Mumbai, in Summary Suit No.7467 of 2005, subject to the Applicant/Appellant depositing the entire amount under decree with interest, in the trial court within a period of three weeks from today.

6. On deposit of the said amount by the Applicant/Appellant in the trial court, the trial court is directed to invest the said amount in any Nationalized Bank, initially for a period of one year, to be renewed from time to time, till disposal of the First Appeal. The Respondent is, however, at liberty to file any application for withdrawal, if deems so fit.

7. On failure of the Applicant/Appellant to deposit the said amount within the stipulated time, the stay granted by this Court shall automatically stand vacated, without further reference to the Court.

8. On deposit of the said amount by the Applicant/Appellant, the attachment of the movable and immovable property of the Appellant shall stand vacated.

9. The Civil Application is disposed of accordingly.

(DR. SHALINI PHANSALKAR-JOSHI, J.)