

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

**CIVIL APPLICATION NO. 3047 OF 2016
IN
FIRST APPEAL (STAMP) NO. 18324 OF 2016**

Globe Accessories Pvt. Ltd. and Ors.	...	Applicants/ Appellants
Versus		
Subaratra Krishna Talukdar and Ors.	...	Respondents

Mr.Prashant P. Prabhu for the Applicants/Appellants.
Mr.A.V.Anturkar, Senior Advocate i/b. Mr.Sugandh B. Deshmukh
for Respondent Nos.1 and 2.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 31ST AUGUST, 2016.

P.C. :

1] This is an application seeking stay to the execution of the money decree. The money decree is for the amount of Rs.1,19,21,044/- with interest thereon.

2] It is submitted by learned counsel for the respondents that as per the order passed by this Court on 11th July, 2016, the applicants had shown readiness to deposit at-least part of the amount immediately to the extent of Rs.5,00,000/- within two weeks. However, till today, the said amount is not deposited. A submission is advanced that there was no such

direction given by the Court to the applicants to deposit the said amount. However, as rightly submitted by learned counsel for the respondents, in order to show his bonafide at-least, the applicants could have deposited the said amount, instead of waiting for further orders.

3] Secondly, it being a money decree, unless the entire amount is deposited or at-least readiness or willingness is shown to deposit the entire decretal amount within a period of four weeks or eight weeks, the stay cannot be granted to the execution of the decree as of right. Learned counsel for the applicants is not making any submission to the effect that they are ready to deposit the entire decretal amount within a certain period of four weeks or eight weeks or any such period. Conversely, they are only showing their readiness to deposit part of the amount, like, Rs.5,00,000/- or Rs.10,00,000/- within two weeks. On deposit of such a meager amount, the stay cannot be granted to the execution of the money decree.

4] Thirdly, learned counsel for the respondents has drawn attention of this Court to the copy of the application given by the advocate of judgment debtor in the execution proceedings on 7th June, 2016, wherein an order has been passed to the effect that, *“Heard Advocate for JD. It is fairly submitted at bar that the JD is not going to obstruct the sale but*

seeks time to furnish terms and conditions only...” In view thereof also, no such case is made out for grant of stay at such stage at-least.

5] At this stage, learned counsel for the applicants submits that he will deposit the entire decretal amount within 12 weeks from today. He also undertakes to deposit 1/4th of the decretal amount, as calculated by the Executing Court, on the expiry of every three weeks, thus, totally the entire amount, as calculated by the Executing Court, within 12 weeks from today. Subject to the deposit of this amount in the Trial Court/Executing Court within a period of 12 weeks from today the stay is granted to the execution of the decree.

6] On failure of the applicants to deposit the amount within the stipulated period, as directed by this Court, the stay will automatically stand vacated, without further reference to this Court.

7] The Civil Application is, accordingly, disposed of.

(DR.SHALINI PHANSALKAR-JOSHI, J.)