

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

CIVIL APPLICATION NO. 3747 OF 2014

IN

FIRST APPEAL (ST) NO. 27490 OF 2014

Matheran Hill Station Municipal Council ... Applicant

In the matter between :

Matheran Hill Station Municipal Council ...Appellant

Vs

M/s. Hiru Construction Company ... Respondent

Mr. Rajesh S. Datar for the Applicant/Appellant.

Mr. C.P. Deogirikar for the Respondent.

***CORAM : S.C. DHARMADHIKARI &
B.P. COLABAWALLA, JJ.***

WEDNESDAY, 30TH NOVEMBER, 2016

P.C. :

1. Heard both sides on the Civil Application.
2. The Civil Application is for stay of the judgment and decree of the trial court. The suit is for recovery of money. The trial court has held that the appellant-Council, who is the defendant, is liable to pay a sum of Rs.23,50,000/- along with interest at 18%

per annum upto the date of judgment and thereafter interest at 6% per annum from the date of judgment and decree till realisation. We do not see how an unconditional stay of the recovery of money can be granted. Given the language of Order 41 Rule 5, Civil Procedure Code, we put the applicant – judgment debtor on terms.

3. On the applicant depositing in the trial court, the principal amount within a period of two months from the date of receipt of a copy of this order, the trial Court shall stay the execution and implementation of the decree. In the event the order is not complied with, all consequences in law shall follow.

4. Civil Application, accordingly, stands disposed of.

B.P. COLABAWALLA, J. S.C. DHARMADHIKARI, J.