IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 146 OF 2016
IN
APPEAL FROM ORDER NO. 109 OF 2016

Mr.Ganesh Atmaram Puranik … **Applicant/ Appellant**

Versus

Nam Sampraday Mandal & Ors. ... **Respondents**

Mr.Vikram Pai with Ms.Laxmi Maria Jenkins i/b. Mr.Haresh G. Ganatra for Applicant/Appellant.
Mr.Amol Kharat with Mr.Kundlik Pachangare i/b. M/s. Pillai & Co. for the Respondents.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 27TH OCTOBER, 2016.

P.C. :

1] This application is preferred seeking stay to the execution of the money decree dated 2nd February, 2013 passed by the City Civil Court, Mumbai in Summary Suit No.8357 of 1998.

2] It is submitted that it was an ex-party decree and that too when as per the order passed by this Court, the suit was to be transferred to the Commercial Court and therefore, it should not have been decided as the Summary Suit.

3] In my considered opinion, when the suit was decreed in the year 2013, the appeal is filed in the year 2015 and registered in the year 2016 and at the end of the month October 2016 when the appellant is seeking stay to the execution of such money decree, needless to state that the stay cannot be granted without compliance of certain terms and conditions.

4] The learned counsel for the appellant submitted that the appellant will be depositing the principal amount of Rs.5,00,000/- within four weeks. The learned counsel for the respondents submits that as the decree is with interest at the rate of 18% per annum from the date of the filing of the suit i.e. 22^{nd} September, 1998 till its realization, the total sum comes around to Rs.22,00,000/-.

5] In such circumstances, in my considered opinion unless and until, the appellant deposits 50% of the total sum of Rs.22,00,000/- in the trial Court, the stay cannot be granted to the execution of the money decree for the suit which was filed in the year 1998.

6] Accordingly, the stay to the execution implementation and operation of the judgment and order passed by the trial Court on 2^{nd} February, 2013 is granted subject to the appellant depositing 50%

amount of Rs.22,00,000/- i.e. Rs.11,00,000/- . Out of the same Rs.5,00,000/- will be deposited within six weeks and remaining Rs.6,00,000/- will be deposited within six weeks thereafter in the this Court accordingly.

7] On deposit of the said amount, the Registry to invest the same in any “Nationalized Bank” initially for a period of one year, to be renewed thereafter from time to time till decision of this appeal.

8] On failure of the applicant to deposit the entire amount within the stipulated period, the said stay granted to the execution of the impugned award will stand vacated automatically without further reference to this Court.

9] This application is disposed of accordingly.

10] Appeal is kept on 22nd December, 2016.

(DR.SHALINI PHANSALKAR-JOSHI, J.)