

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 11517 OF 2015

M/S. PRAGMATIC MAHAVEER
J.V. LTD AND ORS .

...Petitioners

Versus

MR. SUNIL MANOHARLAL KHANDELWAL

...Respondent

....
Ms. Prerna Srivastav i/b. Pooja Saxena, Advocate for the
Petitioners.

....

CORAM : R. G. KETKAR, J.

DATE : 31st MARCH, 2016

P.C.

1. Not on board. At the request of Ms. Prerna Srivastav, petition is taken up in the production board for admission.
2. Heard Ms.Prerna Srivastav, learned Counsel for the petitioners, at length.
3. By this petition under Article 227 of the Constitution of India, the petitioners have challenged the judgment and order

dated 8.9.2015 passed by the learned Judge, presiding over Court room No.24 of the Bombay City Civil Court at Bombay in Summons for Judgment No.64/2013 in Summary Suit No.4563/2012. By that order, the learned trial Judge granted conditional leave to defend subject to the petitioners, hereinafter referred to as the 'defendants', depositing sum of Rs.7,77,190/- within two months from the date of the order, failing which the respondent, hereinafter referred to as the 'plaintiff', shall be entitled to apply for appropriate application for passing judgment, amongst other directions.

4. Ms. Srivastav submitted that aggrieved by this decision, the above Petition was instituted. However, as there was no stay to the impugned order as also time for depositing the amount was not extended, the plaintiff proceeded with the suit and the learned trial Judge decreed the suit on 19.3.2016. She further states that the defendants have applied for certified copy and the same is not ready.

5. Ms.Srivastav states that the defendants intend to challenge that judgment and decree by filing substantive First Appeal in this Court. However, as the certified copy of the

judgment and decree is not yet ready, the defendants are unable to file First Appeal. She apprehends that in the meantime, the plaintiffs may file darkhast proceedings and also try to execute the decree. She, therefore, prays for stay of the judgment and decree dated 19.3.2016 passed in the suit. She assures that within four weeks from today, the defendants will deposit the amount of Rs.7,77,190/- in the trial Court under due intimation in writing to the plaintiff's advocate. She assures that the defendants will not seek further extension of time for depositing the said amount.

6. Having regard to the fact that the main Suit itself is decreed, this Petition is rendered infructuous and is disposed of accordingly. All contentions raised in the present Petition are expressly kept open for agitating the same in the substantive First Appeal.

7. Subject to the defendants depositing Rs.7,77,190/- in the trial Court within four weeks from today under due intimation in writing to the plaintiff's Advocate, the judgment and decree dated 19.3.2016 passed by the learned trial Judge in Summary Suit No.4563/2012 is stayed for a period of four

weeks from today with understanding that the defendants will not seek further extension of time. The Petition is disposed of in the aforesaid terms with no order as to costs.

(R. G. KETKAR, J.)

Deshmane (PS)