

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

SECOND APPEAL NO.70 OF 2016

Ramesh s/o Nathuji Shende
-vs-
Narayan s/o Kisnu Wakodikar

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri H. N. Potbhare, Advocate for appellant.
Shri N. G. Jetha, Advocate for respondent.

CORAM : A.S.CHANDURKAR, J.
DATE : May 03, 2016

Issue notice final disposal of the second appeal on the
following substantial question of law :

“ Whether the averments made in paragraph 4 of the
application seeking leave to defend along with documents
filed on record would give rise to a triable issue warranting
grant of leave to defend the proceedings ?”

Notice is made returnable on **20/06/2016**. Shri N. G.
Jetha, the learned counsel waives notice for the respondent.

C.A.S. No.170 of 2016

Prayer is to grant stay to the effect and operation of the
decree passed in R.C.A. No.275 of 2012. In the application it
has been stated that when First Appeal No.275 of 2012 was
filed in this Court, an amount of Rs.1,10,000/- came to be

deposited which amount was withdrawn by the respondent herein. It is submitted that as both the Courts have refused to grant leave to defend to the applicant, great prejudice would be caused if this stay as prayed is not granted.

The application is opposed by the non-applicant by filing reply. It is stated therein that the decree was passed on 22/10/2007 and the amount in question was to be paid along with interest @ 18% per annum from the date of the suit.

Considering the facts of the case, the execution of the impugned judgment would remain stayed subject to the applicant depositing an amount of Rs.2,50,000/- in this Court within period of eight weeks from today. The amount of Rs.1,40,000/- which the applicant intends to deposit, is permitted to be deposited immediately. Balance amount be deposited in aforesaid period. Application is disposed of.

JUDGE