

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 15622 OF 2016
IN
SECOND APPEAL NO. 149 OF 2015

Balasaheb Raghunath Zagade .. Applicant
versus
Dinkar Arjun Tilekar and another .. Respondents

Mr. S. D. Kulkarni, Advocate for applicant
Mr. Satej S. Jadhav, Advocate for respondents

CORAM : SUNIL P. DESHMUKH, J.
DATE : 2nd May, 2017

ORDER :

1. This civil application has been moved by respondent in second appeal - decree holder, seeking direction to present respondents - appellants in second appeal - judgment debtors to pay balance of decretal amount along with interest.

2. Learned counsel for applicant Mr. S.D. Kulkarni apprehends extinguishment of corpus as there appears to be paper publication for sale of the corpus and submits that decretal amount can be secured from sale proceeds of the corpus. According to learned counsel, apart from the amounts deposited thus far, around Rs.11,75,000/- are yet due and payable under the decree to the applicant-decree holder by respondents-

judgment debtors. He submits, the property under sale may fetch amount more than a crore and that the respondents-judgment debtors has received huge amount under the agreement for sale of the corpus which would easily satisfy the decree.

3. Learned counsel for respondents-judgment debtors finds it difficult to accept the submission on behalf of applicant, submitting that almost amount of Rs.7,00,000/- has been paid to applicant-decree holder. According to him, sale proceeds would not be as is being contended on behalf of the applicant-decree holder. He fairly submits, paper publication has been given for sale of the property, however, it may not be that the property would fetch such a huge amount as has been contended on behalf of the applicant. He submits that the respondents-judgment debtors are not in receipt of amount as claimed by applicant.

4. In the circumstances, interest of the applicant-decree holder can be safeguarded if reasonable amount from the sale proceeds is directed to be set apart.

5. In the circumstances, present situation can be salvaged by directing the judgment debtors-appellants who are respondents in present civil application to set apart a sum of Rs.12,00,000/-

from the sale proceeds of property under proclamation and deposit the same in this court.

6. There shall be charge over said amount of Rs.12,00,000/- from the sale proceeds to be deposited in this court. The amount to be set apart to secure applicant's interest would be deposited immediately upon receipt of the sale proceeds.

7. It is made clear that this order shall not have any repercussions on merits of the case nor shall be deemed to prejudice interest of any party.

8. Civil application stands accordingly disposed of.

SUNIL P. DESHMUKH,
JUDGE

pnd