

Atul

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL ST NO. 8519 OF 2016
WITH
CIVIL APPLICATION NO. 3385 OF 2016
AND
CIVIL APPLICATION NO. 389 OF 2017
AND
CIVIL APPLICATION NO. 3386 OF 2016

Softgrip Power Solutions Pvt Ltd (Formerly known as Soham Power & Controls) ...Appellant

Versus

Anchor Electricals Pvt Ltd, through Power of Attorney ...Respondent

Mr SA Sawant, with Mr HV Kode, for the Appellant.
Mr Ashish Kamat, with Kunal Mehta & Yasmin Godrej, i/b Crawford Bayley & Co., for the Respondent.

CORAM: G.S. PATEL, J
DATED: 10th July 2017

PC:-

1. There are several reasons not to entertain this First Appeal. The first of these is that the conditional order of 9th January 2017 granting the Appellant a stay upon his depositing entire principal

decretal amount has not been complied with. Nothing has been deposited. Obviously, therefore, there is no stay. Execution can, therefore, proceed.

2. The second reason is that the entire Appeal proceeds on a false statement, viz., that the Appellants came to know of the *ex parte* decree only on 1st February 2016. It is on this basis that the stay sought in the Civil Application.

3. The decree, a money decree in a summary suit, is dated 1st August 2014. The Affidavit in Reply to the Civil Application points out that the Appellants were served through multiple modes. They knew about the Suit. There is a bailiff's report. This evidence is annexed to the Affidavit in Reply to the Civil Application. There is no denial.

4. The statement about the knowledge of the decree being obtained by the Appellants only in February 2016 is also incorrect because on 8th June 2015, the Respondent/Plaintiff instituted execution proceedings before the District Court in Pune. This Execution Application was served on the Appellants in December 2015. They chose not to enter appearance. Instead on 18th March 2016 filed this First Appeal. Thus, the statement that they did not know of the *ex parte* decree till February 2016 is completely false.

5. I am not concerned with the merits of the Appeal and I refuse to entertain any submissions in that regard. A party who comes to Court on a statement that is false to its knowledge is not entitled to

any reliefs whatsoever. The Supreme Court has repeatedly held that in such cases the Court must deal with such applications with a firm hand. In *Dalip Singh v State of Uttar Pradesh & Ors*¹ the Supreme Court said that those who shamelessly resort to falsehood and unethical means to achieve their goal are disentitled to any relief, interim or final. Where there is concealment, suppression and deliberate false statements made, the result is a foregone conclusion. It must result in the dismissal of the application and this can be done at any stage.² Very recently, the Supreme Court had occasion to impose significant costs on a party that stood in fairly similar circumstances to mislead civil Courts and to seek repeated extensions of time to defeat a decree for possession.³

6. This case is not materially different.

7. For the last two occasions, the Appellants' principal officer, Appellant No. 2, has been absent. He was on a pilgrimage. On my insistence, he is present in Court today. This order is dictated in his presence. There is no mistaking and there can be no misunderstanding about what I have said or intended.

8. There is also Civil Application No. 3385 of 2016 seeking condonation of delay of one year and 126 days and the reason given is the one I have discarded, the one that is palpably false, about the Appellants learning of the *ex parte* decree only in February 2016.

1 (2010) 2 SCC 114.

2 *SP Chengalvaraya Naidu v Jagannath*, (1994) 1 SCC 1.

3 *Dnyandeo Sabaji Naik & Anr V Pradnya Prakash Khadekar & Ors*, (2017) 5 SCC 496.

There is no reason to grant this Application. On 30th June 2017, I declined to do so. I declined to do so again today.

9. Civil Application No. 3385 of 2016 is dismissed.

10. Consequently, the First Appeal is also dismissed.

11. Having regard to the facts of this case, this dismissal will be accompanied with an order of costs quantified in the sum of Rs. 7.5 lakhs. These costs are, if anything, modest. Costs to be paid within a period of two weeks from today. This is how this Court, set in the commercial capital of the country, proposes to deal with dishonest litigations, those who try to 'game the system'.

12. Other Civil Applications, if any, do not survive and are disposed of as infructuous.

13. It is made clear that the execution initiated by the Respondents can proceed and there is no stay whatsoever against it.

(G. S. PATEL, J)