

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 13321 OF 2016

Vikas Deepchand Shah ... Petitioner
Vs.
M/s. Santoshkumar Jaykumar Vorar & Anr. ... Respondents

Mr. R.S. Apte, Senior Advocate i/b. Mr. Rupesh B. Nalawavde for the petitioner.

Mr. Anand S. Kulkarni, Advocate for respondent No. 1.

Mr. G.S. Hegde a/w. Ms. Juni Pandey i/b. A.R. Bhole & Co., Advocate for intervener.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **25th July, 2017.**

P.C.:

The learned senior counsel for the petitioner/judgment debtor has come with the chart of calculation and submitted that the petitioner has paid the entire decretal amount, i.e., approximately Rs.43 lakhs, which includes principal amount of Rs.10,98,243/- and interest @ 18% p.a.. It is submitted that the total interest comes to Rs.31,03,368/-.

2. Per contra, the learned counsel for respondent no.1/decreed holder disputes the full and final satisfaction of the decretal amount. The learned counsel submitted that as per the calculation of decreed holder, upto March, 2017 the total amount comes to Rs.63 lakhs. It

is submitted that the interest is calculated as per the order of the Court, which specifically says that the interest is to be paid till the realization of the total amount. The learned counsel further submitted that the decree-holder has deposited an amount of Rs.1,37,000/- towards the transfer lease hold rights in respect of two plots with MIDC.

3. It appears that this issue involves calculation of interest, which is to be done before the Executing Court. Hence, order is passed as follows:

- (i) Parties to appear before the Executing Court on 8th October, 2017;
- (ii) Executing proceedings to revive, if dismissed;
- (iii) Both the parties shall submit the chart of calculation before the Executing Court and the Executing Court, after hearing both the parties, to consider whether the interest is paid as per the order and decree is satisfied or not. If decretal amount is satisfied, then the Executing Court may pass necessary order in respect of two plots as mentioned in earlier order dated 5th November, 2012. If the decretal amount is not satisfied and some amount

is in deficit, then the parties may consider settlement in respect of the amount;

- (iv) If the dispute is not settled before the Executing Court, then the judgment debtor may challenge the order dated 5th November, 2012 again before this Court;
- (v) Meanwhile, the order dated 5th November, 2012 is not to be implemented till 10th October, 2017 and this exercise is to be done till 30th September, 2017;
- (vi) In the event of full satisfaction of decretal amount, the amount of transfer fee which is deposited by the decree-holder with MIDC may be refunded.

4. The learned counsel for the respondent no. 1/decreed-holder submitted that the amount of Rs.25 lakhs which is deposited towards the satisfaction of decretal amount in the trial Court be allowed to be withdrawn.

5. The amount of Rs.25 lakhs which is deposited by the judgment debtor in the trial Court is allowed to be withdrawn along with interest accrued thereon.

6. Writ Petition is disposed of.

(MRIDULA BHATKAR, J.)