

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.350 OF 2018

IN

FIRST APPEAL NO.882 OF 2017

Mahalaxmi Resorts & Ors.] ... Applicants

In the matter between :

Mahalaxmi Resorts & Ors.] ... Appellants

Versus

Dr. Abhay Gangadhar Pagdhare.] ... Respondent

Mr. G. S. Hegde i/b Mr. Vinay Bhate for Applicants.

Ms. Yogita D. Chitnis for Respondent.

**CORAM :- K. K. TATED &
SARANG V. KOTWAL, JJ.**

DATE :- 24 JANUARY, 2018

P. C. :-

1. Heard the learned Counsel for the parties.
2. This Civil Application is preferred by the Applicants – Defendants for extension of time to comply with the Order dated 28/11/2017 passed by this Court in Civil Application No.2477 of

2017. By that Order, this Court directed the Applicants – original Defendants to deposit 50% of the decreetal amount in this Court within eight weeks and in respect of remaining 50% of the decreetal amount, the Applicants had to furnish solvent surety to the satisfaction of the Registrar (Judicial) of this Court.

3. The learned Counsel for the Applicants submits that they have already submitted documents by letter dated 16/01/2018 for the second part of the Order dated 28/11/2017 i.e. providing the solvent surety to the satisfaction of the Registrar (Judicial) of this Court. He submits that because of financial difficulty, the Applicants are seeking eight weeks time to deposit 50% of the decreetal amount in the Registry of this Court. The learned Counsel for the Applicants submits that they met the several financial institutions for financial assistance. He submits that it would be difficult to the Applicants to arrange the 50% of the decreetal amount immediately. In support of this contention, he relied on paragraph nos.4 and 5 of the Civil Application. He submits that in the interest of justice, this Court be pleased to extend the time by eight weeks for compliance of Order dated 28/11/2017. He submits that if the time is not extended, irreparable loss would be caused to the Applicants. He submits that the Applicants have a good chance to succeed in the present First Appeal.

4. The learned Counsel for the Applicants submits that the Applicants have decided to file a Review Petition to review the order

dated 28/11/2017 passed by this Court in Civil Application No.2477 of 2017. He submits that in criminal proceedings the Applicants have deposited the sum of Rs.20 Lakhs. That particular amount was not considered by this Court at the time of passing of the order dated 28/11/2017 and also on the merits of the matter.

5. On the other hand, the learned Counsel for the Respondent – original Plaintiff vehemently opposed the present Civil Application. She submits that in the present proceedings, the Trial Court, vide its Judgment and Decree dated 27/07/2016 in Special Civil Suit No.73 of 2007, passed decree in favour of the Plaintiff to the extent of Rs.6 Crores 50 Lakhs with 6% interest from the date of filing of the said suit till realization of the amount. She submits that this Court, at the time of granting interim relief in Civil Application No.2477 of 2017, already granted time of eight weeks to comply with the said order. She submits that the Applicants have not made out any case for extension of time. Not only that, the Plaintiff has already decided to file a Contempt Petition against the Defendants / Applicants. Hence, there is no substance in the present Civil Application and the same be dismissed with costs.

6. We have heard both the sides.

7. It is to be noted that by the order dated 28/11/2017, this Court directed the Applicants to deposit 50% of the decretal amount in this Court within eight weeks but the Applicants could not deposit

the said amount because of financial difficulty. Considering the submissions made by the learned Counsel for the Applicants and the averments made in paragraph nos.4 and 5 of the Civil Application, we are satisfied that the Applicants have made out case for allowing the Civil Application; but at the same time, it is made clear that if the Applicants fail and neglect to comply with the order dated 28/11/2017 within the extended time, the Civil Application No.2477 of 2017 shall stand dismissed without further reference to this Court. Hence, the following order.

ORDER

- (i) Civil Application is allowed in terms of prayer clause (a) which reads thus :

“(a) that this Hon'ble Court be pleased to extend the time to deposit the 50% Decreetal amount to comply the order dated 28/11/2017 for the further period of 8 weeks enabling the applicants to comply the order dated 28/11/2017 passed by this Hon'ble Court.”

- (ii) If the amount is not deposited within the extended time, the Civil Application No.2477 of 2017 preferred by the Applicants for stay, shall stand dismissed without further reference to this Court.
- (iii) Civil Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

(K. K. TATED, J.)