

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5333 OF 2018

Kishor Baldev Ahuja .. Petitioner
Vs.
Vishal Pradeep Sharma and ors. .. Respondents

Ms.Prabha Badadare, for the Petitioner.
None for Respondents.

CORAM : M.S.KARNIK, J.

DATE : 14th DECEMBER, 2018

P.C. :

. The petitioner has approached this Court under Article 227 of the Constitution of India challenging the order dated 10/01/2018 passed by the District Judge-2, Kalyan below Exhibit 5 in Civil Misc. Application No. 3 of 2018. The Appellate Court has by order impugned stayed the proceedings of the execution of decree before trial Court till further orders. The Appellate Court issued notice to the Petitioner- decree-holder. It is the contention of the learned Counsel for the petitioner that virtually the Appellate Court has stayed a money

decree without imposing any conditions. Secondly, it is contended that appeal itself is not maintainable.

2. Learned Counsel submits that the petitioner has duly appeared before the Court in pursuance to the notice of the Appellate Court. The matter is now listed on 17/12/2018. Taking into consideration the fact that there is a money decree dated 13/04/2016 in favour of the petitioner and that there is blanket stay in operation, in the interest of justice, I am inclined to pass the following order.

ORDER

I) The Appellate Court to make an endeavour to decide Exhibit 5 In Civil Misc. Application No. 3 of 2018 on 17/12/2018 itself. In case, it is not possible for the Appellate Court to decide the Application on 17/12/2018 then the same be decided in any event within a period of 4 weeks from 17/12/2018.

II) The Appellate Court may also consider deciding the Appeal itself within this period if possible.

III) I may not be understood to have made any observations on the merits of the matter.

IV) All the contentions are kept open.

3. The Petition is disposed of in the above terms.

(M.S.KARNIK, J.)