

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2317 OF 2018

IN

FAMILY COURT APPEAL NO. 781 OF 2018

Shreeram Motors Pvt Ltd and Another ..Applicants

Vs.

Bajaj Auto Ltd ..Respondent

Mr. G. S. Godbole I/b Kaustubh Thipsay, for the Applicants.

Dr. Birendra Saraf a/w Vishnu Peri and Keya Raval I/b Dhru and Co, for the Respondent.

CORAM:-K. K. TATED & B. P. COLABAWALLA,JJ.

DATE :- JULY 13, 2018.

P. C.:

Heard. By this Civil Application, the Applicants-Original Defendants are seeking stay of the operation and implementation of the order dated 6th March, 2018 passed by the 8th Joint Civil Judge, Senior Division, Pune in Special Summary Suit No. 38 of 2015 directing them to pay an amount of Rs. 3,29,90,268/- along with interest @ 12% p. a. from the date of the suit till realization of amount.

2 The learned counsel for the Applicants, after taking

instruction from his client who is present in court, makes a statement that at present they are not pressing Civil Application on behalf of Applicant No.1. To that effect, he has given in writing. Same is taken on record and marked "X" for identification. Same is accepted.

3 The learned counsel for the Applicants submits that the trial court failed to consider the fact that the transaction was between Applicant No.1 and the Respondent only. In spite of that, the trial court passed the decree against Directors of the Applicant No.1. Hence has prayed for stay of execution, operation, implementation and effect of the impugned judgment and decree dated 6th March, 2018 in favour of Applicant Nos. 2 and 3.

4 On the other hand, the learned counsel appearing for the Respondent vehemently opposed the present Civil Application. He submits that this being money decree, there is no question of granting any unconditional stay even against the Director of Original Defendant No.1.

5 We have heard the learned counsel for the parties. It is to be noted that admittedly the transaction took place between Applicant No.1

and the Respondent. Therefore, prima facie, there is no question of passing any decree against the Directors of Original Defendant No.1 in their personal capacity.

6 Considering these facts, we are of the opinion that pending the hearing and final disposal of the present Appeal, the Applicant has made out a case for stay of execution, operation, implementation and effect of the impugned judgment and decree dated 6th March, 2018. Hence, the following order:-

- a) The execution, operation, implementation and effect of the judgment and decree dated 6th March, 2018 passed by the 8th Joint Civil Judge, Senior Division, Pune in Special Summary Suit No. 38 of 2015 is stayed against Applicant Nos. 2 and 3- Original Defendant Nos.2 and 3 till the hearing and final disposal of the present First Appeal.
- b) It is made clear that the Respondent-Original Plaintiff can proceed against Applicant No.1-Original Defendant No.1 according to law for execution of decree.
- c) The Civil Application stands disposed of accordingly.

(B. P. COLABAWALLA, J.)

(K. K. TATED, J.)