

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

923 SECOND APPEAL NO.522 OF 2018  
WITH CA/8446/2018 IN SA/522/2018

ZILLA PARISHAD  
VERSUS  
GIRJABAI GIRMAJI KARLE AND ORS

...

Mr.S.V. Kuptekar, Advocate for the appellant.  
Mr.S.V. Chandole, Advocate for respondent  
nos.1, 2 & 5.

...

CORAM: V.L. ACHLIYA,J.  
DATE : 16.10.2019

**ORAL ORDER:**

Pursuant to the orders dated 09.10.2019 and 14.10.2019, the appellant has deposited Rs.1,21,500/- as per offer of settlement made by the respondent nos.1, 2 and 5. They have offered to settle the matter fully and finally by accepting Rs.1,21,500/- against the claim of Rs.3,40,000/- made in execution petition.

2. As against the decree of payment of Rs.1,80,000/- with interest @ 9% p.a. from 25.02.1997, the appellant had deposited an amount of Rs.90,000/- on 20<sup>th</sup> August 2002 and amount of Rs.90,000/- on 05.01.2007. The execution application has been filed by respondents claiming the amount of

Rs.3,40,200/- due and recoverable towards the interest to be payable over the decreetal amount. The claim made on account of interest has been disputed with contention that the calculation made towards unpaid interest has been made without considering the amount of Rs.90,000/- deposited on 20<sup>th</sup> August, 2002 and Rs.90,000/- on 05.01.2007, which was already withdrawn by respondent nos.1, 2 and 5. In brief, the appellant has raised the objection that while computing the amount, the respondents have not considered the date of deposit of principal amount in terms of decree passed and interest has been calculated erroneously by over looking the amount deposited.

3. During the course of hearing of appeal, learned counsel for the respondents on the basis of instructions received from respondents offered to settle the claim by accepting the amount of Rs.1,21,500/- which has been calculated after taking into consideration the principal amount deposited by appellant. The respondents offered to withdraw the Execution Petition by accepting Rs.1,21,500/- as full and final settlement towards amount due and payable in terms of

the decree passed. Accordingly, the appellant has deposited Rs.1,21,500/- in this Court.

4. The respondent nos.1, 2 and 5- contesting respondents have tendered pursis to the effect that they are willing to settle the matter by accepting Rs.1,21,500/- as a full and final settlement of their claims towards decree passed in their favour. They further stated that they are not willing to prosecute the execution petition.

5. In view of the above the following order is passed :-

**ORDER**

(i) Registry is directed to immediately transfer the amount of Rs.1,21,500/- deposited by the appellant to the Court of Civil Judge, Senior Division, Parbhani towards the satisfaction of decree passed in Special Civil suit No.85/1997.

(ii) The appellant and respondent nos.1, 2 and 5 are directed to appear before the Court of Civil Judge, Senior Division, Parbhani with a copy of this order on 13/11/2019.

(iii) On appearance of the parties, the Court of Civil Judge, Senior Division, Parbhani is directed to take up the execution proceedings and record satisfaction of decree and dispose of the execution proceedings, and further pass order of disbursement/apportionment of amount of Rs.1,21,500/- amongst the respondent nos.1, 2 and 5.

(iv) The necessary orders be passed within two weeks from the date of appearance of the parties.

(v) The compliance of order be reported to this Court within one week thereafter.

(vi) The Appeal is disposed of in above terms.

(vii) Civil Application, if any, pending stand disposed of in terms of the order passed in appeal.

**[V.L. ACHLIYA]**  
**JUDGE**

SGA