

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.858/2017
in
First Appeal No.177/2017

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
	Ms. Kanchan C. Phatate I/b. Nitin P. Deshpande for the Applicant Mr. Sandesh Patil I/b. Chintan Shah for Respondent Nos.1 to 9.

CORAM: K.K.TATED, J.
DATED : OCTOBER 3, 2019

P.C.

1 Heard. By this Civil Application the Applicant Insurance Co. is seeking stay to the operation and implementation of the impugned Judgment and Order dated 29.04.2013 passed by the Civil Judge, Senior Division, Sangli in MCA No.10/2002 granting probate in favour of the Respondent.

2 The learned counsel for the Applicant submits that pending the hearing and final disposal of the First Appeal, this Hon'ble Court be pleased to stay the operation and implementation of the impugned Judgment and Order.

3 The reasons given by the Applicant in para No.2 of the Civil Application reads thus:

“2. The Applicants have good chances of succeeding in appeal. The interest of justice, therefore, demands that this Hon'ble Court may stay the implementation, operation and execution of the judgment and order dated April 29, 2013 passed by the Civil Judge (Senior Division) Sangli in Miscellaneous Civil Application No.10 of 2002 till the hearing and final disposal of the accompanying First Appeal.”

4 The learned counsel for the Applicant submits that if stay is not granted irreparable loss will be caused to the Applicant.

5 On the other hand, the learned counsel for the Respondent submits that the probate is already granted in favour of the Respondent in the year 2013. Not only that when this matter was admitted by this court, ad-interim relief was not granted in favour of the Applicant. Apart from that the Applicant has failed to disclose any reason for grant of stay. Hence, there is no question of allowing Civil Application. Same is liable to be dismissed with costs.

6 It is to be noted that there is delay of 21 days in filing the First Appeal. Though the Civil Application was filed on 20.03.2017, till today the ad-interim relief was not granted in favour of the Applicant. Apart from that the Applicant has failed to disclose any reason for granting of stay in the Civil Application. I do not find any reason to entertain the present Civil Application.

7 Hence, following order is passed:

- a. The Civil Application stands rejected.
- b. No order as to costs.

(K.K.TATED, J.)