

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.665/2019
IN
FIRST APPEAL ST NO.1648/2019**

Office Office Memoranda Coram, Appearances, court's orders or directions and Registrar's orders	Notes, of	Court's or Judge's orders
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Mr. Rohan Sawant with Kunal Maskar, Urvi Shah & Bhairavi Pathak I/b. I. R. Joshi & Co. for the Applicant
Mr. Sanket Mungale for the Respondent

**CORAM : K. K. TATED, J
DATE : MARCH 13, 2019**

P.C.:

Heard. By this Civil Application, the Applicant - Defendant seeks stay of operation and implementation of the judgment and decree dated 03.12.2018 passed by the Bombay City Civil Court, Mumbai in Summary Suit No.7206/2006 holding that the Respondent Plaintiff is entitled to sum of Rs.2,70,285/- with 9% p.a. interest on the principal amount of Rs.2,22,000/-.

2 The learned counsel for the Applicant submits that they have already deposited a sum of Rs.2,22,000/- in the Trial Court as per the order on summons for judgment on 04.01.2016. He submits that in the interest of justice this Hon'ble Court be pleased to stay the operation and implementation of the impugned order till hearing and final disposal of the first appeal..

3 On the other hand, the learned counsel for the Respondent - Plaintiff has vehemently opposed the Civil Application. He submits that the Trial Court has passed the money decree. Hence, there is no question of granting any stay in favour of the Applicant. He submits that as per their calculation, a sum of Rs.2,99,700/- is due and payable by the Applicant as per the impugned order as on 28th February 2019.

4 Considering the submissions made by the learned counsel for the Applicant and as the Trial Court has passed the money decree in favour of the Respondent, there is no question of granting blanket stay in favour of the Applicant. In any case, the Applicant has to deposit the entire decretal amount along with interest, costs, if any in the Trial Court.

5 Hence, the following order is passed:

- a. The operation and implementation of the judgment and decree dated 03.12.2018 passed by the Bombay City Civil Court, Mumbai in Summary Suit No.7206/2006 is stayed till hearing and final disposal of the First Appeal, subject to the Applicant depositing entire decretal amount including interest and costs in the Trial Court within three weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.
- b. At the time of calculating the entire decretal amount, the Applicant to consider the amount already deposited in the Trial Court.
- c. If the amount is deposited within stipulated time as stated hereinabove the Tribunal is directed to invest the remaining award amount in a fixed deposit account of any Nationalized Bank, initially for a period of one year and same shall be renewed from time to time till further orders.
- d. Liberty granted to the claimants to prefer an appropriate Application for withdrawal of further amount, if they so desire, which will be decided on its own merits.

- e. Civil Application stands disposed of accordingly.
- f. No order as to costs.

(K.K. TATED, J.)