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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 1096 OF 2019

IN

FIRST APPEAL No.302 of 2019

Citizen Credit Co-operative Bank Limited ...Applicant

Vs.

State Bank of India and Anr. ...Respondents

Mr. Madhur Rai i/b. for Appellant

CORAM : SHRI K.K. TATED, J.

DATE : APRIL 16, 2019

P.C.:

1. Heard learned counsel Mr. Madhur Rai for Applicant
2. Learned counsel for Applicant submits that Respondent No.1- State Bank of India was duly served. In spite of service, no one appeared on behalf of them when the matter was called out.
3. By this Civil Application, the Applicant – Original Defendant No.2 is seeking stay of the operation and implementation of the impugned judgment and decree dated 5th January, 2018 passed by the Bombay City Civil Court at Bombay in Suit No. 7443 of 2002 (High Court Suit No. 1178 of 2002) holding that the Respondent Plaintiff is entitled to recover sum of Rs.6,95,000/- with interest @8% p.a.
4. Learned counsel for the Applicant submits that if the entire amount is recovered by the Respondent-Original Plaintiff in execution proceedings, then nothing will survive in the present proceeding. He further submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the impugned

judgment and award dated 5th January, 2018 during pendency and final disposal of the present proceedings. He submits that if the stay is not granted, irreparable loss would be caused to the Applicant. He submits that they are ready and willing to deposit the entire amount in the Trial Court within eight weeks from today.

5. Considering the submissions made by learned counsel for the Applicant, impugned judgment and decree dated 5th January, 2018, and as the Applicant is ready to deposit the entire amount within eight weeks in the Trial Court, I am satisfied that the Applicant has made out a case for allowing the civil application. Hence, following order.

ORDER

- (A) Pending the hearing and final disposal of the present First Appeal, the effect, operation, implementation and execution of the impugned dated 5th January, 2018 passed by the passed by the Bombay City Civil Court at Bombay in Suit No. 7443 of 2002 (High Court Suit No. 1178 of 2002) is stayed on condition that the Applicant to deposit the entire awarded compensation along with interest in the trial court on or before 4th June, 2019, failing which the civil application shall stand dismissed without reference to the Court.
- (B) If amount is deposited by the Applicant within stipulated time as stated hereinabove, the trial court is directed to invest the amount in a fixed deposit of any nationalized bank, initially for a period of one year and to be continued till further orders.

- (D) Liberty granted to the Respondent / Original Plaintiff to make appropriate Application, if they so desire for withdrawal of further amount, and will be decided on its own merits.
- (E) Civil Application stands disposed of accordingly.

[K.K. TATED, J.]