

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

**CIVIL APPLICATION NO. 713 OF 2019
IN
FIRST APPEAL (ST.) NO. 3148 OF 2019**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
	A. Daver with Meit Sampat i/b Little & Co. for the Applicant. Abhijeet Singh i/b Anil Mishra for Respondent.

**CORAM: K.K.TATED, J.
DATED : OCTOBER 1, 2019**

PC.

1 Not on board. At the request of the advocate for the Applicant, matter is taken on production board for urgent orders.

2 Heard learned Counsel for the parties.

3. By this Civil Application, the Applicant-Original Defendant is seeking stay of the operation and implementation of the Judgment and decree dated 13/12/2018 passed by the Bombay City Civil Court, Bombay in Summary Suit No. 2128/2000 holding that the Respondent/Original

Plaintiff is entitled to sum of Rs. 5,72,600/- with interest @ 9% p.a. on principal amount.

4. The Learned Counsel for the Applicant submits that, the Respondent/Original Plaintiff filed execution application No. 105 of 2019. He submits that if the entire amount is recovered by the Respondent/Original Plaintiff in execution application then nothing will survive in the present proceeding. He submits that they have good chance of success in the present First Appeal. He 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 decree dated 13/12/2018.

5. The Learned Counsel for the Applicant submits that, if stay is not granted, irreparable loss will cause to the Applicant. He further submits that he has received instructions from his client that they are ready and willing to deposit the entire decretal amount with interest in the Trial Court within four weeks from today. The statement is accepted.

4. Considering the submission made by the Learned Counsel for the Applicant and as the Applicant is ready to deposit the entire decretal amount in the Trial Court, I am satisfied that the Applicant has made out a case for following order:

a. Civil Application is allowed in terms of prayer clause (b) on a condition that the Applicant to deposit the entire decretal amount along with accrued interest in the Trial Court on or before 16/11/2019 failing which, Civil Application shall stand dismissed without further reference to the Court. Prayer clause (b) reads thus:

“a. pending the hearing and final disposal of the above Appeal, this Hon’ble Court be pleased to stay the execution of the impugned Judgment/Order dated 13th December, 2018 passed by the Hon’ble City Civil Court in Summary Suit No. 8337/2000.”

b. If amount is deposited within the time, the Trial Court is directed to invest the said amount in a fixed deposit of any Nationalized Bank, initially for a period of one year which shall be renewed from time to time till further orders.

c. The Respondent/Plaintiff is granted

liberty to take out appropriate application for withdrawal of the amount which shall be decided on merits on its own merits.

d. Civil Application stands disposed of accordingly.

c. No order as to costs.

(K.K.TATED, J.)