

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 440 OF 2019
IN
FIRST APPEAL NO. 133 OF 2019

Office Notes,
Office
Memoranda of
Coram,
appearances,
Court's orders or
directions and
Registrar's orders

Court's or Judge's orders.

Mr. Yogesh Vora for the Appellant.

CORAM: K.K.TATED, J.
DATED : 03/09/2019

P.C.

1 Heard learned Counsel for the parties.

2 By this Civil Application, the Applicant original defendant is seeking stay of the operation and implementation of the Judgment and Decree dated 05.10.2018 passed by Bombay City Civil Court at Mumbai in S.C. Suit No. 437 of 2014 holding that Respondent original Plaintiff is entitled to a sum of Rs. 16,17,000/- with interest @ 9 % p.a. from the date of filing of the suit till realisation of the entire amount.

3 The learned Counsel for the Applicant submits that in the interest

of justice, this Hon'ble Court be pleased to stay the operation and implementation of the Judgment and Decree. He submits that if entire amount is recovered by the Respondent Plaintiff in Execution Application, then nothing will survive in this First Appeal.

4 Considering the submissions made by the learned Counsel for the Applicant and as this being a money decree, they have to deposit entire amount with interest in the trial Court, I am satisfied that Applicant has made out a case for allowing this Civil Application.

5 Hence, the following order is passed:

a) Civil Application is allowed in terms of prayer clause (a) on condition that Applicant to deposit the entire awarded amount with interest in the Tribunal on or before 19.10.2019, failing which Civil Application shall stand dismissed without further reference to the Court. Prayer clause (a), reads thus:

"a) That pending the hearing and final disposal of the First Appeal, this Hon'ble Court be pleased to stay the execution of the decree dated

05.10.2018 passed by the Hon'ble City Civil Court, at Dindoshi, Borivali Division, Goregaon, Mumbai, Court Room No. 2 presided by His Honour Judge Shri. S.S. Oza in S.C. Suit No. 437 of 2014."

b) The Tribunal is directed to invest the amount in fixed deposit of any nationalised bank, initially for a period of one year and same to be continued till further order.

c) Liberty is granted to the Respondents-Claimants, if they so desire, to prefer an appropriate application for withdrawal of amount and that to be decided on its own merits.

d) Civil Application stands disposed of accordingly.

e) No order as to costs.

(K.K.TATED, J.)