

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.800 OF 2019
IN
FIRST APPEAL NO.235 OF 2019

The State of Maharashtra (Thru
the Joint Secretary) And Anr. .. Applicant

vs.

Shree Pravin Mammal Kothari .. Respondent

Mr.Vijay D. Patil, Special Counsel a/w Mr.Y.Y.Dabke, A.G.P.
for the applicant

Mr.Swaraj S. Jadhav for the respondent

**CORAM: K.K.TATED &
SARANG V. KOTWAL, JJ.
DATED : JANUARY 30, 2020**

P.C.

1 Heard.

2 By this Civil Application, Applicant State of Maharashtra is seeking stay of the operation and implementation of the impugned judgment and decree dated 04.06.2018 passed by 10th Joint Civil Judge, Senior Division, Pune in Special Civil Suit No.859 of 2013 directing them to pay sum of Rs.39,32,64,692/- to the respondent original plaintiff with interest @ 12% p.a. as mentioned in paragraph 38 of the impugned judgment till realisation of entire amount.

3 The learned counsel for the applicant submits that in the present proceeding, respondent original plaintiff was appointed as transport contractor for Pune District for transportation of food grains from FCI Godowns to Government Godowns under Public Distribution System since 1988. Plaintiff claimed the enhanced rate of transportation charges for the period 01.04.2001 to 31.03.2008. He submits that at the time of deciding Special Civil Suit, Trial Court failed to frame the issue about limitation. He submits that in view of these facts, this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and decree till the hearing and final disposal of the First Appeal. He submits that as per earlier ad-interim order dated 26.02.2019 passed by this court, they already deposited 50% amount of decree in the Registry of this court.

4 On the other hand, the learned counsel for the respondent submits that in the present proceeding, Trial Court has passed money decree. Therefore, there is no question of staying the same without directing applicant to deposit entire amount.

5 Considering the submissions made by the learned counsel for the applicant and the averments made in Civil Application, we are satisfied that the applicant has made out a case for allowing the Civil Application but at the same time, they have to deposit remaining amount along with interest in the Registry of this court withing a period of four

months from today. Hence, following order is passed:

a. Operation and implementation of the impugned judgment and decree dated 04.06.2018 passed by 10th Joint Civil Judge, Senior Division, Pune in Special Civil Suit No.859 of 2013 is stayed till the hearing and final disposal of the First Appeal on condition that applicant to deposit remaining entire decretal amount along with interest in the Registry of this court on or before 12.06.2020, failing which Civil Application shall stand dismissed without referring back to the court.

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

c. Liberty granted to the respondent original plaintiff if they so desire, they can make appropriate application for withdrawal of the said amount and same be decided on its own merits.

d. Civil Application stands disposed of accordingly.

e. No order as to costs.

(SARANG V. KOTWAL, J.)

(K.K.TATED, J.)