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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.920 OF 2020
IN
FIRST APPEAL (STAMP) NO.1448 OF 2020

Amulakh H. VoraApplicant.

In the matter between

Amulakh H. Vora Appellant.

V/s

Venus Trading Corporation
and Others

..... Respondents.

Mr. Pradeep J. Ramchandani for the Applicant by the Interim
Application.

Mr. Jayesh Bhatt for Respondent No.1.

CORAM: NITIN W. SAMBRE, J.

DATE: JULY 16, 2021

P.C.:-

1] This Interim Application is filed by the Defendant No.2/
Applicant seeking stay to the execution and implementation
of the judgment and decree dated 10/10/2019 passed in S.C.
Suit No.3148 of 2011.

2] Contentions are, delivery was accepted by the Plaintiffs without any protest. According to him, specific findings are recorded by the court below that Plaintiff No.1 is responsible for default, if any, and so as to substantiate the same he would invite attention of this court to the findings recorded by the court below in para 19 of the impugned judgment so as to claim that it shall be the responsibility of Plaintiff No.1 to pay the said amount.

3] Mr. Bhatt, the learned Counsel for the non-applicant would oppose the aforesaid submission based on evidence and so also findings recorded in the judgment impugned.

4] Having considered the said submissions, it is apparent that decree passed against the Applicant is a money decree. Specific findings are recorded by the Court below that order

was received by Applicant/Defendant No.2 for supply of pipes of particular specifications, which he was duty bound to manufacture and supply under the contract. Appellant has failed to honour his part of obligation. Said fact has duly weighed before the court below while passing the order impugned.

5] In response to the court's query, learned Counsel for the Applicant/judgment debtor would urge that Applicant shall deposit principal amount and in view of the finding recorded particularly in para 19, he be granted relief of stay to the extent of depositing interest and other expenses.

6] In that view of the matter, subject to deposit of principal amount within a period of four weeks from today, there shall be stay to the execution. Once the amount is deposited, same be made over in Fixed Deposit in

Nationalized Bank initially for a period of three years.

7] Application stands allowed in the above terms.

8] In case, amount as ordered is not deposited within the time stipulated, needless to clarify that stay shall cease to operate without further reference to the Court and the Plaintiff/decreed holder will be entitled to execute decree against the Defendant/Judgment debtor.

9] If the amount as ordered is deposited it shall be open for the Applicant/Appellant to pray for releasing of the property from attachment.

(NITIN W. SAMBRE, J.)