

Pooja K.

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

SECOND APPEAL NO. 6 OF 2022
WITH
CIVIL APPLICATION NO. 3498 OF 2019
IN
SECOND APPEAL NO. 6 OF 2022

Annarao Pandurang Gambhire	... Appellant
<i>Versus</i>	
Navalkishor Bhagwandas Sarda	... Respondent

...
Mr. S.S. Manale – Advocate for Appellant
Mr. R.P. Adgaonkar – Advocate for sole Respondent
....

CORAM : GAURI GODSE, J.
DATE : 31st January, 2023

PER COURT :

1. Heard.
2. The second Appeal is admitted on the following substantial questions of law :
 - a) Whether the first appellate court could have decreed the suit by interpreting the promissory note produced at exhibit - 56 as being not a promissory note but a money bond as defined in Section 2(c) of Bombay Stamp Act ?
 - b) Whether first appellate court was right in decreeing the suit by ignoring that the document at exhibit - 56 was insufficiently stamped and hence, it was inadmissible in evidence ?

c) Whether the parameters laid down by Hon'ble Supreme Court in case of Santosh Hazari Vs. Purushottam Tiwari reported in 2001 (3) SCC 179 are followed while reversing the findings recorded by the trial court ?

3. Mr. R.P. Adgaonkar – learned counsel appearing on behalf of sole respondent waives service.
4. Call for record and proceedings.
5. Printing is dispensed with.
6. The appellant to file private paper book containing judgments of both the courts, first appeal memo, pleadings, notes of evidence and exhibited documents, within a period of one year from today.

CIVIL APPLICATION NO. 3498 OF 2019

1. This application is filed for stay to the effect, execution and operation of the impugned judgment and decree. As it is a money decree it will be necessary to impose condition for granting of stay.
2. Considering the facts and circumstances of the case, applicant is permitted to give solvent security for 50% of the decretal amount and the applicant shall deposit in the court balance 50% of the decretal amount.

3. Learned counsel for the applicant states that, he needs some time to furnish security as well as time to deposit the amount. He requested for two months' time for the compliance hence, following order is passed :

ORDER

i) Civil Application is allowed in terms of prayer clause 'B' which reads as under :

“B. Pending hearing and final disposal of the present Second Appeal grant stay to the effect, execution and operation of the judgment and decree passed by the learned Ad-hoc District Judge-2, Latur in R.C.A. No. 23/2016 dated 15.10.2018.”

subject to following conditions :

(a) The applicant shall deposit 50% of the decretal amount in this court within a period of ten weeks from today.

(b) Applicant shall furnish undertaking for 50% of the decretal amount to the satisfaction of the learned Registrar (Judicial), within a period of ten weeks from today.

ii) The Civil Application is disposed of in above terms.

**[GAURI GODSE]
JUDGE**