

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

COMMERCIAL AO NO. 9 OF 2023

V K Fasteners Private Limited

...Appellant

Versus

Ganpat Pukhraj Jain

...Respondent

Mr. Mayank Bagla a/w. Mr. Swapan Samadani for appellant.

Mr. Sandeep Kekane a/w. Ms. Prachi Jain & Mr. Rishikesh Kekane for respondent.

**CORAM: K.R. SHRIRAM &
RAJESH S. PATIL, JJ**

DATED: 11th April, 2023

PC:-

1. This appeal is impugning an order dated 13th December 2002 by which the trial court namely Adhoc Judge, Court Room NO.31, City Civil Court, Mumbai partly allowed the notice of motion taken out by respondent in the commercial suit no. 1132 of 2021 and directed appellant to deposit a total amount of Rs.14,89,207/-. The learned Single Judge was pleased to reject

respondent's prayer to make appellant deposit a further sum of Rs. 23,15,527/-.

2. Mr. Bagla submitted that even this amount of Rs. 14,89,207/- is not payable to respondent and entire claim is disputed. However, if the court permits appellant to deposit amount of Rs. 14,89,207/- with the City Civil Court on without prejudice basis that there is no admission of liability and respondents should be directed to prove even this amount is payable by appellant, appellant is ready and willing to deposit the amount of Rs. 14,89,207/-.

3. Mr. Kekane for respondent stated that respondent is agreeable to suggestion, respondent will prove in the suit the entire decree claimed.

4. In the circumstances, we dispose the appeal as under :-

- (i) Appellant to deposit the amount of Rs. 14,89,207/- with the registrar of City Civil Court, Bombay within four weeks from today.
- (ii) This amount to be invested in fixed deposit with a nationalized bank for a period of thirteen months initially to be renewed for the same period unless otherwise ordered by the City Civil

Court, Bombay.

- (iii) The amount is deposited does not mean appellant admits that respondent was entitled to summary decree in sum of Rs. 14,89,207/-.
6. All rights and contentions of parties are kept open.
7. Parties may apply to the learned City Civil Court Bombay for early hearing of the matter. The court may consider the application keeping in mind its diary.
8. We clarify that we have not made any observations on the merits of the matter.

(RAJESH S. PATIL,J.)

(K.R. SHRIRAM,J.)