



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CIVIL APPLICATION (CAS) NO. 1587/2023

IN

SECOND APPEAL NO. 113/2022

Uddhavrao S/o Marotraoji Mankar (Patil) (Dead) through P.O.A.

Vs.

Vijay Kumar S/o Manikchand Lulla (HUF)

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

Court's or Judge's orders

Shri Abhijeet Khare, Advocate for appellant
Shri Prasad Gupta, Advocate for respondent Nos. 1 & 2

CORAM : SMT. M.S. JAWALKAR, J.

DATE : 14/12/2023

Present application is filed for bringing legal representatives of sole appellant on record. The application is filed within limitation. It is supported by the affidavit. Death certificate of appellant is filed on record along with application.

2. Learned Counsel for respondent has no objection. Accordingly, application is allowed.

3. Applicants are permitted to substitute their names in place of the deceased appellant.

4. Necessary amendment to be carried out within two weeks.

5. The application stands disposed of.

CIVIL APPLICATION (CAS) NO. 1589/2023

Heard both the parties. It is contended by learned Counsel for respondent Nos. 1 and 2 that there was no compliance of the order passed by this Court on 14/11/2022. Therefore, stay needs to be vacated. It is contended that interest part of the order is not complied with. There was a direction to deposit the interest amount, which is not paid. The learned Counsel for appellant undertakes to deposit interest amount within four weeks from the date of passing of the order.

2. As against this, learned Counsel for respondent submitted that as per decree in Trial Court, he has deposited principal amount on 12/05/2010. As such, he is liable to pay interest till 12/05/2010. In view of order of the Trial Court that appellant was liable to pay interest at the rate of 9% per annum from the date of last payment i.e. 11/01/2001, till its realization and amount is deposited

on 12/05/2010. He has deposited the interest till 12/05/2010. Receipt thereof is annexed with the application.

3. In view thereof, I do not see any substance in the application for vacating stay. The alternative prayer made by learned Counsel for respondent is for grant of early hearing. There is no objection from the appellant side, if early hearing is granted.

4. Considering the dispute involved in the matter, list the application for final hearing on 17/01/2024 at 2:30 p.m.

(SMT. M.S. JAWALKAR, J.)