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26fa1074.24

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**26 FIRST APPEAL NO. 1074 OF 2024
AND
CIVIL APPLICATION NO. 4203 OF 2024
IN FA/1074/2024
AND
CIVIL APPLICATION NO. 4204 OF 2024
IN FA/1074/2024**

PRAKASH ARUN CHITTE

....Appellant

VERSUS

ANURADHA GOVINDRAO ADIK

.....Respondent

Mr. P. C. Mayure, Advocate h/f Mr. S. S. Chapalgaonkar,
Advocate for the appellant
Mr. R. R. Karpe, Advocate for the respondent

CORAM : KISHORE C. SANT, J.

DATE : 10th DECEMBER, 2024

P. C.

DELAY

1. The office note shows that appeal is within time. In view of the same nothing survives in the application for condonation of delay.

2. The applications stands disposed off as such.

APPEAL

1. Heard.
2. **Admit.**
3. Call R & P
4. Mr. Karpe, learned advocate waives service of notice for the respondent.

STAY

1. This application is for stay to the execution, implementation and operation of the judgment and decree passed by the learned Civil Judge Senior Division, Shrirampur dated 28-04-2023 in Regular Civil Suit No.20/2021. The learned

court by way of impugned judgment decreed the suit of the respondent-plaintiff filed for compensation on account of defamation against the applicant- original defendant. The appellant is directed to pay the compensation of Rs. 1 crore to the plaintiff by way of damages for his defamation and comments. Initially the appeal was filed in the court of District Judge-1, Shrirampur. However, in view of objection raised by the respondent and in view of the legal position the appeal memo came to be returned under order VII Rule 10 of the CPC by order dated 02-03-2024 holding that pecuniary jurisdiction available to the district Judge is only for Rs.1 crore and claimed in the suit was Rs.5 crore.

2. The learned advocate for the applicant submits that when the appeal was filed before the District Judge there was stay granted on condition of giving bank guarantee for an amount of Rs.10 laksh. He submits that there is a case of merits, balance of convenience also lies in his faovur. He thus prayed for grant of interim stay to the impugned judgment and order.

3. Mr. Karpe, learned advocate vehemently opposed the said application. He submits that this decree is in the form of money decree and when stay is to be granted the applicant needs to be put strict condition to deposit the entire amount or at least to give security for total amount of Rs.1 crore. He relies on the judgment of the Delhi High Court in OMP (ELN) (COMM)103/2023 wherein it is held that court has to grant stay only on depositing the entire amount or security to the extent of entire amount. He thus submits that stay be refused or in case stay is to be granted, the applicant to put specific condition of depositing of Rs.1 crore or to deposit the part amount with security. He also relies on the order passed in the case of Times Global Broadcasting Company Ltd and another Vs Parshuram Babaram Sawant reported in (2014) 1 SCC 703. In the said case the suit was decreed directing to pay Rs.100 crore. In the appeal stay was granted subject to condition of depositing the amount of Rs.20 crores. The order passed by the High Court was upheld by the Hon'ble Apex court. From the order it is seen that High

Court had also considered the case before the learned trial court and upon prima-facie looking to the finding recorded by the trial court had passed that order.

4. This proceeding is arising out of defamation proceeding. This court has gone through the judgment to ascertain as to how the amount of Rs.1 crore is quantified by the learned Judge. This court has to keep in mind that money decree in other suit is different than the suit for defamation. In such suits, either there is commercial transaction or losses caused to the parties approaching the court that suit of specific performance, recovery of amount etc. So far as defamation is concerned this court finds that unless some specific losses are shown such cannot be said to be a money decree. Though the amount is directed to be paid towards compensation, the compensation is also not for any loss caused to the parties. In the judgment there is nothing to show that any personal loss is caused except mental harassment and that some reputation is spoiled caused to the plaintiff. The court has considered in para

No. 205 that the compensation is for mental action etc.

5. Considering the above, this court finds that stay can be granted on reasonable conditions. Hence, the following order:

ORDER

- a] The application stands allowed.
- b] There shall be stay to the impugned judgment and order pending the appeal subject to furnishing the solvent surety/security to the extent of Rs.25 lakhs to the satisfaction of the learned Registrar (Judicial) of this court within four weeks from today.
- c] The application stands disposed off.

[KISHORE C. SANT, J.]