



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

60 WRIT PETITION NO. 8012 OF 2024

COSMO FIRST LTD FORMERLY KNOWN AS COSMO FILMS LTD
VERSUS
UJJAWAL BHANUDAS NAGE

Mr. A. D. Kasliwal, Advocate for the petitioner
Mr. M. B. Ubale, Advocate for the respondent

CORAM : R. M. JOSHI, J.
DATE : 3rd FEBRUARY, 2025

PER COURT :-

1. This is a petition wherein the Execution Court stays the money decree only on the ground that an application is moved by Judgment Debtor before the regular Court for setting aside the decree in question. Admittedly, no order has been passed by the Trial Court in M.C.A. No. 260/2024 for setting aside ex-parte judgment and decree passed in R.C.S.No. 716/2018.

2. Learned counsel for the petitioner submits that it was not open for the Execution Court to stay the decree. According to him the Judgment Debtor ought to have made out a case before the Trial Court in M.C.A. No. 260/2024 for stay of the decree, if any.

3. Learned counsel for the respondent has attempted to convince the Court that the learned Judge holds charge of both

proceedings and therefore the order came to be passed and the same is justified.

4. There is no dispute about the fact that there is a money decree in favour of the petitioner/original plaintiff in R.C.S. No. 716/2018. The respondent/defendant in original proceedings filed MCA No. 260/2024 for setting aside said ex-parte judgment and decree. There is no order passed by the Trial Court in the said application for staying the decree in question. In such circumstances, question of execution Court staying the decree does not arise. The order impugned therefore cannot sustain.

5. Hence, petition stands allowed. Impugned order is set aside.

(R. M. JOSHI, J.)

ssp