

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.80 OF 2024
WITH
INTERIM APPLICATION NO.13407 OF 2024

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Aruna Gulab Gupta ...Appellant/Applicant

V/s.

Suresh Chand R. Gupta and Ors. ...Respondents

WITH
INTERIM APPLICATION NO.6730 OF 2025
IN
FIRST APPEAL NO.80 OF 2024

Suresh Chandra Gupta ...Applicant

In the matter between:-

Aruna Gulab Gupta ...Appellant

V/s.

Suresh Chand R. Gupta and Ors. ...Respondents

WITH
FIRST APPEAL NO.1488 OF 2024
WITH
INTERIM APPLICATION NO.13368 OF 2024

Shobhit s/o Gulab Gupta ...Appellant/Applicant

V/s.

Suresh Chand R. Gupta and Ors. ...Respondents

Ms.Paavani Chadha:-	Advocate for the Appellants in FA No.80 of 2024 and FA No.1488 of 2024 and for Applicants in IA No.13407 of 2024 and IA No.13368 of 2024.
Ms.Hema Whaval:-	Advocate for Respondent No.1.

CORAM : S. M. MODAK, J.

DATE : 30th SEPTEMBER 2025**P. C. :-**

1. Heard learned Advocate for the Appellants / Defendant Nos.1 and 2 and the learned Advocate for the Respondent No.1 / Plaintiff.
2. The Court of City Civil as per the judgment dated 9th December 2020 directed the Defendant Nos.1 and 2 to pay a sum of Rs.2,00,000/- (Rupees Two Lakh) to the Plaintiff towards the damages within three (3) months. The First Appeal No.80 of 2024 is preferred by the Defendant No.2 whereas the First Appeal No.1488 of 2024 is preferred by the Defendant No.1. The Interim Applications are filed in those two Appeals. Both the Appeals are already admitted on 21st August 2024 and 13th September 2024. As per the order dated 9th January 2025, this Court has requested the Executing Court to defer the proceedings for certain period.

3. Today circulation is sought on behalf of the Respondent No.1. I have heard both the learned Advocates on Interim Application. Pending the Appeal, stay to the execution of the impugned judgment is sought. As contemplated as per the provisions of Order 41, Rule 5 of the Code of Civil Procedure, 1908 (“CPC”), if there is a direction to pay certain amount and if stay is sought, it has to be subject to conditions. In present set of facts, the condition can be to deposit the amount before the trial Court. Learned Advocate for the Appellant after taking instructions from the Appellant - Shobhit Gupta submitted that if the money is deposited, the Respondent No.1 may not be allowed to withdraw the money. Today this Court is only deciding the Interim Application for stay. In view of that, following order is passed:-

ORDER

- (i) Stay is granted to the execution of the impugned judgment dated 9th December 2020 passed by the City Civil Court subject to deposit of the decretal amount within a period of four (4) weeks before the City Civil Court.
 - (ii) Both the Interim Applications are disposed of.
 - (iii) If there is a request for withdrawal of the amount, after hearing the Appellants, it will be considered on merits.
4. The matter be listed after paper-book will be ready.

5. The parties are at liberty to seek circulation of the Interim Application, if any.

[S. M. MODAK, J.]