

**2IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION NO. 482 OF 2024

Suresh Indu Lasers Pvt. Ltd

..Applicant

Versus

Meritt Transmission, Partnership Firm

...Respondent

WITH

INTERIM APPLICATION NO. 15848 OF 2023

IN

CIVIL REVISION APPLICATION NO. 482 OF 2024

Mr. K. N. Kandekar, for Applicant.

Mr. Armaan Grewal a/w Rahul Raut, for the Respondent.

CORAM : N. J. JAMADAR, J.

DATE : 21th JANUARY 2026

ORDER:

1. Heard the learned Counsel for the parties.
2. The challenge in this Civil Revision Application is to an ex-parte decree passed by the learned Judge, City Civil Court in Summary Suit No. 839/2018.
3. By an order dated 27th October, 2021, this Court while condoning the delay, in filing the revision application, has granted stay to the execution proceedings i.e. Special Darkhast No. 26/2020 subject to the applicant, depositing the decretal amount.

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4. Accordingly, the applicant has deposited the decretal amount in this Court on 25th November, 2021.

5. Since the impugned decree is appealable, the revision application cannot be entertained. The learned Counsel for the applicant, submits that, the applicant would prefer an application for setting aside the ex-parte decree passed by the Trial Court, invoking the provisions contained in Order XXXVII Rule 4 of the Code of Civil Procedure, 1908 ("the Code, 1908).

6. The learned Counsel for the respondent-plaintiff submits that, the applicant-defendant may resort to the remedies that are available in law. However, the decretal amount which has been deposited in this Court be ordered to be released in favour of the respondent-plaintiff. It was submitted that, the respondent-plaintiff had filed an Interim Application (ST) No. 15848/2023 seeking the said relief.

7. As the Revision Application is not maintainable against the impugned judgment and decree, it would be appropriate to allow the applicant-defendant to work out its remedies as available in law. Since, the applicant-defendant has deposited the decretal amount in this Court, and the said amount is invested, the interest of the respondent-plaintiff can be said to have been effectively secured. It would, therefore, be expedient

in the interest of justice that, the said amount is retained with the Court till the proceeding to be initiated by the applicant, pursuant to the liberty granted by this Court, is decided.

8. The Revision Application thus stands disposed with liberty to the applicant-defendant to file an application under Order XXXVII Rule 4 of the Code, 1908 before the City Civil Court.

9. Such application be filed within a period of two weeks from today.

10. In the event the question of limitation arises, the time spent by the applicant in prosecuting this revision application may be accounted for under Section 14 of the Limitation Act.

11. The amount of Rs. 9,35,698.14/- (Rupees Nine Lakhs Thirty Five Thousand Six Hundred Ninety Eight and Fourteen Paise) along with the interest accrued thereon, be transferred to the City Civil Court to the suit account in Summary Suit No. 839/2018.

12. Upon transfer of the said account, the learned Judge, City Civil Court, shall invest the said amount in an interest bearing account. The said amount shall abide the final order that may be passed in the proceeding under Order XXXVII Rule 4 of the Code, 1908.

13. The parties shall appear before the City Civil Court on 18th February, 2026.

14. Since the decree was passed on 27th July, 2018, the learned Judge, City Civil Court, is requested to make an endeavor to hear and decide the said application under Order XXXVII Rule 4 of the Code, 1908, to be filed by the applicant-defendant within a period of six months from 18th February, 2026.

15. In the event, the application for setting aside the decree under Order XXXVII Rule 4 of the Code, 1908 is not filed within a period of two weeks, the amount deposited by the applicant-defendant along with interest be paid to the respondent-plaintiff, without reference to the Court.

16. The stay to the execution and operation of the decree passed in Summary Suit No. 839/2018 shall continue to operate till the decision of the application under Order XXXVII Rule 4 of the Code, 1908.

17. The Civil Revision Application stands disposed.

[N. J. JAMADAR, J.]