

IN THE COURT OF SMALL CAUSES AT MUMBAI**ORDER BELOW EXHIBIT 22****IN****R.A.E. SUIT NO.1455 OF 2015**

Mrs. Shamsi Malek Malekpur

... Plaintiff

Versus

PEMS Investments Pvt. Ltd.

... Defendant

**Coram : P. D. Zambre,
Judge, C.R.No.15,
Date : 21.11.2017****ORAL ORDER :**

The defendant has filed this application for stay of order dated 09.11.2017 under Order 41 Rule 5 of the Code of Civil Procedure, 1908 (for short 'the Code').

2. In short, it is application of the defendant that the Court has passed order on application of amendment but the defendant wants to file documents which are strongly in its favour. On the day of order, they failed to produce those documents, therefore, the defendant prayed to stay the proceeding.

3. Say of the plaintiff is called. The plaintiff objected the application on the grounds that lot of chances are given to the defendant to produce the documents but documents are not produced. The defendant is trying to delay the hearing and prayed to pass the appropriate order.

4. Heard both learned advocates for the parties. The reason mentioned in the application for stay of execution of order is that the defendant wants to submit documents but already order is passed on 09.11.2017. In the circumstances, no fruitful purpose will be served by allowing the defendant to produce that document because stage of considering those documents is now over. Moreover, it is not contention of the defendant that it wants to prefer any appeal or revision against that order. In the circumstances, I found no substance in the said application. Moreover, though it is presumed that the defendant wants to prefer any appeal or revision against that order but as per Rule 3 and 5 of Order XLI of the Code, the order of stay of execution shall not be granted unless the Court is satisfied that there will be substantial loss to the praying party if order of stay is not passed but that type of circumstances are not pleaded in the application. In the circumstances, the application appears to be devoid of merit and liable to be rejected. Considering the facts and circumstances, the parties are liable to bear their own costs. Hence, the order :

ORDER

- 1) The application is rejected.
- 2) The parties bear their own costs.

(P. D. Zambre)
Judge, C.R.No.15
21.11.2017

Dictated on : 21.11.2017
Transcribed on : 29.11.2017
Checked & signed on : 02.12.2017