

Precedent No. 27

COUNTER-AFFIDAVIT BY THE DECREE-HOLDER: SEEKING INTERIM STAY

BEFORE THE HON'BLE HIGH COURT OF

C.M.P. NO.....of 20.....

In

O.S. No.....of 20.....

IN THE MATTER OF:

A.B

.....PETITIONER

VERSUS

B.C

..RESPONDENT

COUNTER-AFFIDAVIT BY THE RESPONDENT

I,, S/o, agedyears, presently and permanently residing in....., do hereby solemnly affirm and declare as under:

1. That I say, that I am the respondent in the accompanying application and being well conversant with the facts and circumstances of the present case, I am competent to swear to this affidavit.
2. That I say, that the appeal is filed against the judgment and decree dated....., in O.S. No.....on the files of the Additional Subordinate Judge's Court *vide the* decree the Court has kindly allowed this respondent to realize and recover from the petitioner a sum of Rs.....with future interest and costs.
3. That all the averments made in the affidavit accompanying the stay petition filed by the petitioner, save and except those which are specifically admitted hereunder, are denied as absolutely untrue and incorrect.
4. That I say, that the aforesaid petition and the appeal are not maintainable. There are a number of decisions clearly laying down the proposition that in a money decree the appeal can be entertained only if it is accompanied by payment of the decree-debt or furnishing of adequate security before this Hon'ble Court for satisfying the decree passed by the trial Court. That the said proposition of law has been blatantly neglected in filing the present appeal is amply clear.

5. That, in view of the aforementioned circumstances, the appeal in the present case is clearly non-maintainable. On this ground alone, the stay petition is liable to be rejected at the threshold by this Hon'ble Court.
6. It is, therefore, just and necessary that this Hon'ble Court may be pleased to dismiss the stay petition with compensatory costs.

Sd./

Deponent.

VERIFICATION

Verified at on this theday of 20that the contents of the above affidavit are true and correct to the best of my knowledge, belief and information and nothing material has been concealed therefrom.

Sd./

Deponent.

Solemnly affirmed and signed before me by the deponent, who is personally known to me, on this the day of , 20.....

Sd./

Counsel for the deponent.

Note: Affidavit to be attested by the appropriate authority prescribed under law. Prayer be avoided and only facts be stated. Language should be in 'first person'.