

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

FA No. 129 of 2019

Vijay Mashrani **Versus** Ravi Jain

06/08/2019	Shri Vijay Mashrani, appellant in person. Shri Yogesh Pandey, counsel for respondent No.1. Shri Sanjay Kumar Agrawal, G.A. for the State. Heard on I.A.No.1, application for stay for execution of decree. The appellant himself appears in the case. He submits that the impugned judgment and decree has been passed without impleading the legal representatives. It is further argued that the case was taken up for settlement and thereafter, the Court has proceeded ex-parte and ex-parte decree has been passed against him. According to him, respondent / plaintiff was not entitled to purchase the plot because the plot was already purchased by him or his wife. On the other hand, learned counsel for the respondent would submit that the appellant has suffered an ex-parte judgment and decree. The evidence, oral and documentary both, led by the respondent / plaintiff has remained uncontroverted and the Trial Court has recorded a finding that the deceased / plaintiff – Bhupatrai Mashrani had received Rs.30 lakhs. He further submitted that the uncontroverted evidence has been made a basis to record a finding that the respondent / plaintiff was ready and willing to perform his part of contract. Therefore, decree has been granted. Having considered the submission, particularly taking into consideration that the submission which has now been made by the appellant before this Court are based on certain evidence which were never led before the learned Trial Court as the appellant has suffered ex-parte judgment and decree, we are not inclined to grant stay. I.A.No.1 is accordingly rejected. At this stage, learned counsel for respondent No.1 submits that if the entire advance amount is paid to him along with interest @ 6 %, the

respondent may consider a settlement by receiving advance pay.

The appellant may submit his response within two weeks.

The matter be listed after two weeks to explore possibility of settlement between the parties.

Sd/-

(**Manindra Mohan Shrivastava**)
Judge

Sd/-

(**Vimla Singh Kapoor**)
Judge