

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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CA 18-01485

PRESENT: WHALEN, P.J., SMITH, PERADOTTO, DEJOSEPH, AND WINSLOW, JJ.

STATE BANK OF TEXAS, PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

KAANAM, LLC, MILIND K. OZA AND NAYNA M. OZA,
DEFENDANTS-APPELLANTS.

CARL E. PERSON, NEW YORK CITY, FOR DEFENDANTS-APPELLANTS.

LAW OFFICE OF RICHARD J. MORRISROE, DUNKIRK (RICHARD J. MORRISROE OF
COUNSEL), FOR PLAINTIFF-RESPONDENT.

Appeal from an order of the Supreme Court, Chautauqua County (Timothy J. Drury, J.), entered June 23, 2016. The order, among other things, awarded plaintiff damages in the amount of \$300,000, with interest.

It is hereby ORDERED that the case is held, the decision is reserved and the matter is remitted to Supreme Court, Chautauqua County, for further proceedings in accordance with the following memorandum: Defendants appeal from an order entered following a nonjury trial that, inter alia, awarded plaintiff damages in the amount of \$300,000 together with interest. Supreme Court's written decision fails to set forth the "facts it deem[ed] essential" to its determination (CPLR 4213 [b]). Under the circumstances, we conclude that the case must be held and that the decision must be reserved, and we remit the matter to Supreme Court to make the requisite findings of fact and to conduct a new trial or hearing, if necessary (see *Chavoustie v Stone St. Baptist Church of Chaumont*, 163 AD2d 856, 856 [4th Dept 1990]; *Treadway Inns Corp. v Robe of New Hartford*, 91 AD2d 828, 829 [4th Dept 1982]; *Mastin v Village of Lima*, 77 AD2d 786, 787 [4th Dept 1980]).

Entered: March 15, 2019

Mark W. Bennett
Clerk of the Court