

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
CIVIL WRIT PETITION NO. 10746 OF 2014

Rekha Prakash Tiwade

.....Petitioner

V/s.

Prakash Bapu Tiwade

....Respondent

Mr. Sachin K. Hande for Petitioner

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : JANUARY 23, 2015

PC :

1) Heard. Rule.

2) Petitioner herein questions the correctness and validity of the order dated 26/03/2014 passed by District Judge 1 Jaysingpur thereby rejecting Civil Application No. 48/2013. Petitioner herein had filed an application seeking condonation of delay in filing the appeal challenging the Judgment and Order dated 14/09/2012 passed by Civil Judge Senior Division, Jaysingpur in H.M.P. No. 19/2011 thereby passing a decree of Restitution of Conjugal Rights in favour of the husband of the petitioner. Learned District Judge, Jaysingpur vide order dated 06/03/2014 was pleased to allow the

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application seeking condonation of delay on the condition that applicant shall deposit cost of Rs. 1,000/- forthwith.

3) Petitioner herein had not deposited the cost as directed by the District Judge. Thereafter, petitioner had filed an application on 26/03/2014 seeking permission to deposit the cost of Rs. 1,000/-. Learned District Judge had observed that petitioner herein had not complied by the Court's order dated 06/03/2014. Said application was not supported by an affidavit. Learned District Judge was of the opinion that the petitioner has no regard for the orders of the Court and has rejected the said application vide order dated 26/03/2014.

4) In the interest of justice, this Court is inclined to allow the petition and set aside the order dated 26/03/2014 on the condition that the petitioner shall deposit cost of Rs. 1,000/- and fine of Rs. 300/- i.e. a total amount of Rs. 1300/- on or before 10/02/2015, failing which, order dated 26/03/2014 will take its own effect.

ORDER

- (i) Writ Petition is allowed in terms of prayer clause 'a'.
- (ii) Order dated 26/03/2014 in Misc. Civil Application No. 48 of 2013 is hereby quashed and set aside.
- (iii) Rule is made absolute in above terms.

Writ petition stands disposed of.

(SMT. SADHANA S. JADHAV, J.)