

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CAO No. 940 of 2014 And MCA (St) No. 9373 of 2014 And CRA No.
254 of 2014

M/s Shri Naina and ors v. M/s VIP Trade Links and anr

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's Orders.

Court's or Judge's orders.

Mr D. V. Sonwane, Adv for applicants
 Mr Papinwar, Adv for respondents

CORAM : A. V. NIRGUDE, J

DATED : 15th April 2015

1. CAO No. 940/14 And MCA (St) No. 9373 of 2014 : Heard. Delay caused in filing application for restoration of civil revision is allowed. Order dated 22.4.2014 passed by the Registrar (Judicial) is also set aside. Applications stand disposed of accordingly.
2. CRA No. 641 of 2013 : This revision application is filed mainly against common order passed below exhibits 23 and 26 by 7th Joint Civil Judge, Senior Division, Nagpur in Special Civil Suit No. 1312 of 2011. This was a suit for recovery of price of goods sold to the defendants. There are five defendants. Defendants no. 1 to 3 and 5 submitted their Written Statements within ninety days, but defendant no. 4 who is applicant here did not file Written Statement within 90 days. On 23rd January 2013, rather belatedly, he filed Written Statement and

sought condonation of delay. He mentioned various reasons why Written Statement should be taken on record.

3. Learned Judge rejected his application mainly because the application was not supported by an affidavit and documentary proof of circumstances which delayed filing of Written Statement.

4. In view my view, the learned Judge ought to have allowed the Written Statement to come on record. First reason is that the other defendants had already filed their Written Statement and have taken definite defences. This is a suit for recovery of price of goods sold to the defendants and remaining defendants took a stand that goods supplied to them were not as per the order etc. Now, the applicant/defendant no. 4 is likely to take some other plea for his defence and in a suit of this nature, the parties expect quick disposal of the dispute. A pragmatic view ought to have been taken. Even if Written Statement of defendant no. 4 is not taken on record, suit will be surviving between plaintiff and other defendants and will take some time for disposal. Secondly, the purpose of respondent/plaintiff for quick disposal of the suit would not be satisfied even if the delay is not condoned. The delay is thus condoned.

5. Though the reasons mentioned in the application are not convincing, I am permitting the Written Statement of applicant/defendant no. 4 to come on record on payment of costs of Rs. 15,000/-

(Rs. Fifteen thousand only) to the plaintiff. Written Statement shall be filed within one week. Cost shall be paid within one week. In case cost is not paid within the stipulated period, defendant no. 4/applicant shall not be allowed to file Written Statement on record. Learned Judge of the trial Court shall expeditiously hear the suit and dispose of the suit as early as possible. Revision Application stands disposed of accordingly.

JUDGE

joshi