

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

CIVIL APPLICATION NO. 16721 OF 2015
IN
SECOND APPEAL NO. 714 OF 2007

Pramilabai Hemantrao Wagh .. Applicant

vs

Ravindra Bhyila Marathe .. Respondent

Mr. Shailesh P. Brahme, Advocate for applicant
Mr. Subodh P. Shah, Advocate for respondent

CORAM : SUNIL P. DESHMUKH, J.
15TH JANUARY, 2016

ORDER:

1. Heard learned counsel for the parties.
2. Applicant who is a lady is before this court, submitting that though there was an order of depositing ₹ 2,000/- towards mesne profits per year, the same had been missed out from her attention and she realized implications only when the matter had been moved by other side for execution. According to her, failure to deposit the amount as per the directions of the high court was neither intentional nor deliberate. Since the order had missed out attention and it is her bonafide mistake, she submits that she is prepared to make amends.

3. Mr. Shah, learned counsel for respondent, however, submits that his client is a labourer and is in dire need of possession of the property. He, therefore, submits that no indulgence be given, this being a case of sheer negligence in spite of orders of this court. Mr. Shah requests that if the court is inclined to allow the application, second appeal may be taken up for final hearing.

4. Taking into account that the applicant is an age old lady and is agriculturist and not a highly literate person, looking at that the second appeal is admitted and that the matter is yet to be decided on merits, it would be appropriate to allow the application subject to certain costs.

5. In the circumstances, applicant shall deposit all the arrears of mesne profits as directed under the orders on civil application for interim relief within a period of eight weeks from today and shall continue to regularly pay the amount as has been directed every year without any further default.

6. Application as such stands allowed in terms of prayer clauses (B) and (C) on condition that the applicant shall deposit also an amount of ₹ 5,000/- as costs over and above the arrears of mesne profit within a period of eight weeks.

7. Upon such deposit being made, it would be open for respondent to withdraw said amount.

8. Applicant-appellant shall prepare paperbook in the meanwhile and then it is open for the parties to move the matter to have it fixed for final hearing.

SUNIL P. DESHMUKH, J.

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