

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

WRIT PETITION NO.1296/2016

Sunderdas s/o Maganmal Amesar

...Versus...

Shri Jayesh s/o Kishorilal Dawda and another

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

Court's or Judge's orders

Shri R.M. Sharma, Advocate for petitioner
Ms Daksha K. Dawda, Advocate for respondent no.1

**CORAM : SMT. VASANTI A. NAIK AND
MRS. SWAPNA JOSHI, JJ.**

DATE : 29.06.2016

By this writ petition, the petitioner has sought a direction to the respondent no.2 - Small Causes Court at Nagpur to decide Regular Civil Suit No.511/2002 within a period of three months.

It is the case of the petitioner that though the suit is filed in the year 2002, in the Small Causes Court, and though a Small Cause Suit is required to be decided within a time-frame, the suit is not decided for more than 14 years. It is stated that the suit filed in 2002 is still pending.

Ms Dawda, the learned Counsel for the respondent no.1 has opposed the prayer made in the writ petition. It is stated that the writ petition would not lie before the Division Bench as only a direction to the Small Causes Court to decide the suit

within a time-frame, is sought. It is stated that the petitioner has unnecessary levelled false allegations against the respondent no.1 and his Counsel i.e. her. It is stated that the allegations are absolutely false and baseless. It is stated that the respondent no.1 is not instrumental in delaying the matter and if at all the matter is delayed, it is due to the petitioner. It is stated that though the respondent no.1 has made an application before the Small Causes Court, the petitioner is not ready to work out the matter on the said civil application since 5.3.2015. It is insisted that this Court should record that the petitioner is not ready to conduct hearing at Exh.232 since 5.3.2015. The learned Counsel has sought for the dismissal of the writ petition.

It is not within the domain of this Court to go into the merit of the submissions made on behalf of the parties. A writ of mandamus is sought against the Small Causes Court to decide the civil suit filed by the petitioner in the year 2002. The very fact that the suit is filed in the year 2002 and is not decided till date clearly shows that there is an inordinate delay in deciding the same. We are not inclined to adjudicate on the submission made on behalf of the parties that the delay is on the part of the opposite party. Since the prayer made in the writ petition is innocuous, it would be necessary to direct the Small Causes Court, in the interest of justice, to decide the suit, within a time-frame.

Since the prayer made in the writ petition is a simple and innocuous prayer and since the suit is pending in the Small Causes Court for nearly 14 years, we dispose of the writ petition with a direction to the Small Causes Court at Nagpur to decide

Regular Civil Suit No.511/2002 as early as possible and positively within a period of eight months.

Order accordingly. No costs.

JUDGE

JUDGE

Wadkar