

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2926 OF 2015

NAMDEO LALOO RATHOD
VERSUS
AJAY SHANTARAM DESHPANDE

Advocate for Applicant : Shri S.G. Dodiya.
Advocate for Respondent : Shri J.R. Shah.

CORAM : RAVINDRA V. GHUGE, J.
Dated : 25th September, 2017

PER COURT :

1. While issuing notice to the respondent, I had passed the following order on 30/09/2015 :

“1. Leave to replace page Nos. 15 to 24 so as to place on record the copy of the application for condonation of delay is granted. To be complied with on or before 09/10/2015.

2. The petitioner is aggrieved by the order dated 01/10/2013 delivered in MARJI No.172/2010 by which the application for condonation of delay filed by the petitioner below Exh.20 has been rejected.

3. This petition has filed in February 2015.

4. RCS No.930/2007 has been decreed on 05/09/2009 directing the petitioner/defendant to pay professional fees of Rs. 15,000/- with expenses of Rs. 2,000/- and with interest @ 18% on the decretal amount till its realization.

5. Grievance put forth by the petitioner is that the delay was neither deliberate nor inordinate. The Trial Court should have adopted a pragmatic view rather than adopting a pedantic approach. By the rejection of the application for condonation of delay, the petitioner has been rendered remediless.

5. Issue notice before admission to the respondents, returnable on 27/10/2015. The petitioner, in order to establish his bonafides, shall deposit an amount of Rs. 20,000/- in this Court on or before 23/10/2015.

6. On the condition of deposit, the respondent is precluded from proceeding with the execution proceedings RD No.351/2013 till the next date of hearing in this matter.

7. Needless to state, in the event the said amount is not deposited, as directed above, the ad-interim protection granted by this order shall stand vacated without

reference to the Court.”

2. I have considered the submissions of the learned advocates for the respective sides for some time. Learned advocate for the respondent submits that he is not interested in receiving his suit proceeds as a personal gain. He had pursued the said proceedings, since his professional fees were to be recovered from the petitioner.

3. It is, further, stated that as an amount of Rs. 20,000/- has been deposited by the petitioner in this Court, the said amount along with accrued interest could be donated to the Advocates Associations' Bar Library, High Court, Aurangabad. He, therefore, submits that, on this count, the proceedings could be closed.

4. Learned advocate for the petitioner, after taking time to collect instructions, now submits that the petitioner is agreeable to the above said suggestion and this petition could be disposed off in the light of the statement made. It should, however, be

recorded that the said issue between the parties is concluded and there shall not be any offshoots of the litigation.

5. In the light of the above and the gracious statement made by the respondent, this petition is disposed of by observing that the litigation between the two sides has been brought to an end. There shall not be any further litigation between the parties in respect of the subject matter of this petition and there shall not be any offshoot litigation in that context.

6. The amount of Rs. 20,000/- deposited by the petitioner in this Court shall be withdrawn with accrued interest, by the respondent, only to be deposited (entire amount with interest) with the Advocates Associations' Bar Library, High Court, Aurangabad by way of a donation. By way of compliance of this order, the respondent would place the copy of the receipt on record.

7. In the light of the above and since the entire litigation between the two sides has been brought to an end, the

execution proceedings in petition No. 351/2013 shall stand concluded and shall be formally disposed of by the learned Executing Court.

(RAVINDRA V. GHUGE, J.)

S.P.C.