

drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2407 OF 2016

Pra. Kai. Sambhappa Mogalika Kamgar
 Sahakari Bhadekaru Sah. Bhagidar Gruh
 Nirman Sanstha Maryadit,
 86, Chittod Road, Dhule
 Through its Chairman
 Shri. Vijay Shivajirao Marathe
 Age - 50 years, Occ - Business
 R/o Dhule

PETITIONER

VERSUS

1. Anna Sampat Marathe
 Age - 60 years, Occ - Retired
 Plot No (6-B), A. N. No. 77
 Pra. Kai. Sambhappa Mogalika
 Kamgar Sahakari Bhadekaru Sah.
 Bhagidar Gruh Nirman Sanstha Maryadit
 86, Chittod Road, Dhule
2. Sanjay Shivajirao Marathe
 Age - 50 years, Occ - Business
 R/o 62, Shivshakti Colony,
 Chittod Road, Dhule
3. Smt. Prabhavati Ramchandra Joshi,
 Age - 65 years, Occ - Nil
 R/o Deep Prabha Prerna Colony,
 Near TV Centre, Malegaon
 Camp Malegaon, District - Nashik

RESPONDENTS

.....
 Mr. Vikram Anandrao Pawar, Advocate for the petitioner
 Mr. V. B. Patil, Advocate for respondent No.1

.....
[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 13th AUGUST, 2018

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard learned

advocates for the appearing parties finally with consent.

2. After hearing learned advocates, the position appears to be that respondent No. 1 herein had caused appearance in the dispute before co-operative court after summons had been received. It further transpires that the respondent had failed to prosecute matter further, under a plea having been told by some court officials that a subsequent summons would be issued to him about next date. This is how the explanation in respect of delay occurs at the instance of respondent No. 1. Respondent No. 1 had been working as a police official and is a retired person.

3. In such a case, even if some due and credibility is to be given to the plea, having regard to facts and circumstances, the dispute is of 2009 and appeal is preferred in 2015 in respect of a decision rendered in 2012, the cost awarded by the co-operative appellate court may have to be enhanced.

4. As such, impugned order would be modified only to the extent of amount of costs referred to in clause 2 of the operative order dated 16th December, 2015. Instead of Rs.2,000/-, respondent No. 1 shall bear costs of Rs.20,000/- and he shall deposit the same by 31st December, 2018. Clause 2 in the operative order dated 16th December, 2015 of the co-operative appellate court stands modified and costs of Rs.20,000/- is

imposed on respondent No. 1 instead of Rs.2,000/-. Learned advocate for respondent No. 1 submits that Rs.2000/- as directed, have already been deposited by respondent No. 1. As such, respondent No. 1 is supposed to deposit further amount of Rs.18,000/- within aforesaid period. Appeal, however, may proceed with expeditiously in the interregnum save final verdict till deposit of amount. Upon deposit of amount of costs, the petitioner would be at liberty to withdraw the same.

5. Writ petition is thus partly allowed. Rule is made absolute in aforesaid terms.

[SUNIL P. DESHMUKH, J.]

drp/wp2407-16

**Dinesh
Ramrao
Pawar**

Digitally signed
by Dinesh
Ramrao Pawar
Date: 2018.08.14
14:36:53 +0530