

WRIT PETITION NO. 8789 OF 2017

Suresh Pandurang Shinde	...	Petitioner
V/s.		
Smt.Bebitai Dhanaji Shinde & Anr.	...	Respondents

- Mr.Anilkumar K. Patil a/w. Mr.Mithun Mahajan for Petitioner.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 13th MARCH, 2018.

P.C. :

1] Heard learned counsel for the Petitioner.

2] By this Writ Petition, filed under Article 227 of the Constitution of India, the Petitioner is challenging the order dated 24th June 2016 passed by the Civil Judge Junior Division, Kavathe Mahakal, thereby allowing Civil Miscellaneous Application No.18 of 2016.

3] The said Application was preferred by the Respondents herein under Section 148 read with Section 152 of the Code of Civil Procedure (*for short, "C.P.C."*) seeking extension of time for deposit of the amount of Rs.2,500/- towards the redemption of mortgage. The

trial Court has allowed the said application considering the reasons given by the Respondents therein and this order of the trial Court is challenged in this Writ Petition by submitting that no sufficient and valid reasons are given by the Respondents for extension of the time.

4] It is urged that, the Suit bearing Regular Civil Suit No.86 of 2003 was decreed by the trial Court on 1st July 2006 and Respondents were directed to deposit the amount of Rs.2,500/- within two months from the date of order. Thereafter, the Petitioner had preferred an Appeal bearing Regular Civil Appeal No.181 of 2006, the said Appeal came to be decided on 14th October 2011. The Second Appeal No.208 of 2012 also came to be decided on 22nd November 2012.

5] Meanwhile, Respondents have filed this Application for extending the period for deposit of the amount. The delay was of 93 days and the trial Court has observed that during the *pendency* of the Appeal, the execution of the decree was stayed. It is also considered by the trial Court that the Respondents, being illiterate women, they were unable to raise this amount. During the said period Respondent No.1 was also suffering from illness and was taking treatment as indoor patient; whereas Respondent No.2 was attending to her; therefore, they could not file such Application for deposit of the amount within stipulated period. In this facts of the case, the trial

Court found fit and proper to extend the time for deposit of the amount.

6] On going through the impugned order of the trial Court and having regard to the facts and circumstances of the case, I do not find any reason made out to interfere in the discretion exercised by the trial Court.

7] The Writ Petition therefore being without merits, stands dismissed.

[DR.SHALINI PHANSALKAR-JOSHI, J.]