

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.2657 of 2018
IN
WRIT PETITION NO.11019 of 2018

Venkatesh Pandurang Deshpande

and ors

.. Petitioners

Versus

NKGSB Co-operative Bank Ltd

and anr

.. Respondents

...

Mr. Siddharth Samantarey with Mr.Kushal Sawant I/b Puneed Gogad for the applicant.

Mr.Sanjay Anbhuwane for the respondent Bank.

CORAM: SMT. BHARATI H.DANGRE, J.
(Vacation Court)

DATED : 26th DECEMBER, 2018

P.C:-

1 On 28th November 2018, the Division Bench of this Court passed the following order

“1 We record statement of learned counsel for the Petitioners that as far as Writ Petition No.11010 of 2018 is concerned, the Petitioners shall deposit the balance amount of Rs.11,36,712.09 within four weeks from today with DRAT. We also record his statement that as far as Writ Petition No.10884 of 2014 is concerned, the Petitioners shall deposit balance amount of Rs.9,78,120.50 too within four weeks from today with DRAT. DRAT to accept the deposit.

- 2 It is made clear that in the event the amounts are not deposited within four weeks from today as stipulated above, both the petitions shall stand dismissed. We also record statement of learned counsel for the Petitioners that no further extension of time shall be sought.
- 3 In the facts and circumstances of the case, we direct the Petitioners to pay costs of Rs.10,000/- in each of the petitions to the Respondent-Bank within two weeks from today. On deposit of the aforesaid amounts, the Appeals before the DRAT shall stand restored.
- 4 Both petitions to stand disposed of accordingly.

2 A Civil Application is taken out by the petitioner in Writ Petition No.11019 of 2018 praying for some indulgence in the time schedule fixed by this Court as regards the payment of Rs.11,36,712.09. The application proceeds to state that the petitioner has deposited the entire sum of Rs.9,78,120.50 which was due in Writ Petition No.10884/18 and the amount of costs as stipulated in paragraph no.3 of the order has also been deposited. The application proceeds to state the difficulties raised by the applicant/petitioner, in paragraph no.11 and a solemn statement is made in the said application that the balance amount would be arranged for and paid within a period of four weeks. The said application is taken out in view of the fact that the period granted by this Court vide order dated 28th November 2018 is to expire today.

2 I have learned counsel for the applicant and also the learned counsel for the respondent Bank who has vehemently opposed the said application.

On perusal of the application, it appears that the grounds on which extension is sought bonafide and what the petitioner seeks is some breathing time to comply with the order qua the first petition since he has cleared the amount due in the second writ petition i.e. WP No.10884/2018. He has also deposited an amount of Rs.1,76,712/- towards the liability of Rs.11,36,712.09. In such circumstances, interest of justice demands that an opportunity be afforded to the petitioner. It is however made clear that since this Court in its order dated 28th November 2018 has already recorded that there would be no further extension of time, by considering the exceptional circumstances stated in the application and only by way of a special indulgence, this Court is granting relaxation of the time limit. However, it is now made clear that no further extension would be granted in any case and if at all, it is prayed for, it would be rejected with heavy costs.

3 Civil Application is allowed in terms of prayer clause(a).

(SMT. BHARATI H. DANGRE, J.)