

IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.

WRIT PETITION No. 542 of 2019
WITH
CIVIL APPLICATION NO. 3203 of 2019
IN
WRIT PETITION No. 542 of 2019

Shivaji Panditrao Jogdand

...Applicant

Versus

Dinkar Gopalrao Kulkarni

...Respondent

Mr. Satyajit S. Bora, Advocate for applicant

Mr. Girish K. Naik-Thigle, Advocate for respondent.

CORAM : RAVINDRA V. GHUGE, J.

DATE : 11th JUNE, 2019

PER COURT:

1. I have heard the learned Advocates for the respective sides. With their consent, the writ petition is taken up for final hearing.

2. The issue raised in the writ petition is with regard to the order passed by the learned District Judge-9, Aurangabad, dated 30th October, 2018, by which C.M.A. No. 240/2015 was allowed and delay in filing the appeal was condoned, subject to depositing the licence fees, within three months. Since the said direction was not complied with, the appeal preferred by the

petitioner was not registered.

3. This Court had passed an order on 16th January, 2019 directing the petitioner to deposit the said amount within six weeks, which were to conclude on 16th February, 2019. The Civil Application was filed on 21st February, 2019 seeking extension of time.

4. The learned Advocate for the respondent has opposed the writ petition as well as the civil application on the ground that the petitioner is an Advocate and is operating a shop for selling mobile phones. The dispute has arisen out of the said shop. He is a chronic defaulter. He only extends assurances and does not abide by the same.

5. The learned Advocate for the petitioner submits that an irreparable harm would be caused to the petitioner if indulgence is not shown by this Court. He submits that the petitioner would abide by all the directions as may be issued by this Court and prays that the lapse may be condoned.

6. Considering the above, the writ petition is partly allowed, with the following directions:

(a) The amount, as directed by the learned District Judge vide order dated 30th October, 2018, shall be deposited in the Appellate Court on or before 20th

June, 2019.

- (b) The licence fee for the months from 1st September, 2018 till 30th May, 2019 shall be deposited in the Appellate Court on or before 15th July, 2019.
- (c) The monthly licence fees beginning from June, 2019 onwards shall be deposited in the Appellate Court on or before the 10th day of the succeeding month, regularly.
- (d) If the conditions set out in clause (a) and (b) are not complied with, the appeal preferred by the petitioner shall not be registered by the Appellate Court at Aurangabad.
- (e) If the direction in clause (c) suffers even a single default, the petitioner would be liable to suffer all legal consequences flowing from such failure.

7. At this juncture, it is pointed out by the learned Advocate for the respondent-landlord that an appeal was preferred by the petitioner-tenant in the year 2015. He seeks a time-frame for deciding the appeal, to which the tenant would not oppose. As such, after the appeal is registered upon compliances of the directions in clause (a) and (b), the Appellate Court would

endeavour to decide the said appeal as expeditiously as possible and, preferably, on or before 31st July, 2020.

8. In view of disposal of the writ petition, the civil application stands disposed off.

(RAVINDRA V. GHUGE)
JUDGE

Madkar