

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
REVIEW PETITION [STAMP] NO.11638 OF 2018
IN
WRIT PETITION NO.5687 OF 2000

Mohammad Ali Gulam Dastgir Dafedar	]	Applicant
vs.		
The Progressive Education Society	]	
and others.	]	Respondents

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Mr. Akshay P. Shinde, Advocate for the Petitioner.
Mr. I.M. Khairadi, Advocate for the Respondents.

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CORAM : R.G. KETKAR, J.
DATE : 6th AUGUST, 2019.

P.C.

Heard Mr. Shinde, learned Counsel for the petitioner and
Mr. Khairadi, learned Counsel for the respondents at length.

2. By consent of the learned Counsel for the parties, Review
Petition is taken up for admission.

3. By this Petition under section 114 r/2 Order-XLVII, Rule-1
of the Code of Civil Procedure, 1908 (for short 'C.P.C'), the petitioner
has sought review of the order dated 1st July, 2017 passed by this Court
in Writ Petition No.5687 of 2000. By that order, the Petition instituted

by the respondents' was allowed and the appeal preferred by the petitioner being Appeal No.125 of 1996 before School Tribunal, Solapur was dismissed. Aggrieved by this decision, the petitioner preferred Special leave Petition No. 22066 of 2017 before the Apex Court. By order dated 22nd September, 2017, S.L.P was dismissed. On behalf of the petitioner, it was submitted that certain recovery is being made from him. The Apex Court, therefore, gave liberty to the petitioner to seek relief by filing appropriate Review Petition before the High Court. In pursuance therefore, the petitioner has instituted the present Review Petition.

4. In the order dated 1st July, 2017 under review, it was noted that after hearing both the sides, by order dated 22nd November, 2000, the learned Single Judge admitted the Petition by issuing rule and granted stay only to reinstatement and clarified that there is no stay to the order of the School Tribunal for payment of backwages.

5. Aggrieved by that order, the respondent herein instituted Letters Patent Appeal No.134 of 2001 before Division Bench of this Court. By order dated 4th February, 2002, Division Bench disposed of Letters Patent Appeal. The Division Bench did not interfere with the stay granted to the order of reinstatement. In so far as back wages are concerned, the Court permitted the respondent (petitioner herein) to withdraw amount of Rs.2,12,394/- subject to furnishing security to the satisfaction of Registrar of this Court. Withdrawal of the amount by the petitioner herein was without prejudice to the rights and contentions of the parties.

6. In pursuance thereof, it is not in dispute that the petitioner had withdrawn Rs.2,12,394/- in the year 2002. Now, the respondents

in the Review Petition are seeking refund of that amount together with accrued interest as the order of the School Tribunal was set aside by this Court.

7. The matter was adjourned from time to time so as to enable Mr. Khairadi to take instructions as to whether the respondents are ready and willing to waive the amount withdrawn by the petitioner. Upon taking instructions, Mr. Khairadi states that the respondents are ready and willing to waive Rs.25,000/- out of Rs.2,12,400/- withdrawn by the petitioner. The petitioner may be directed to refund Rs.1,87,000/-.

8. Mr. Shinde on telephonic instructions states that within 8 weeks from today, the petitioner will refund Rs.1,87,000/- to the respondents and assures that the petitioner will not seek further extension of time. Mr. Khairadi, on the other hand, submits that in case within 8 weeks from today, the petitioner does not pay Rs.1,87,000/- then he may be directed to pay Rs.2,12,000/- together with interest @ 6% per annum from 2002 till realization/payment of the amount. Mr. Shinde has no objection for adopting such course.

9. In view thereof, the Review Petition is disposed of in the following terms;

[1] The petitioner shall pay Rs.1,87,000/- to the respondents within 8 weeks from today.

[2] The petitioner shall not seek further extension of time for paying that amount.

[3] In case, the petitioner does not pay entire amount (Rs. 1,87,000/-) within 8 weeks from today, he shall pay Rs.2,12,400/- together with interest @ 6% per annum from 2002 till realization/payment of the amount.

Order accordingly.

[R.G.KETKAR, J.]