IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.29 OF 2019
IN
WRIT PETITION NO.1728 OF 2013

Mrs. Lila Lall (died on 26/06/1996)
By L.R.
Dinesh Chandra : Applicant.

In the matter between

Ramnivas Chetram Agarwal(Bansal) : Petitioner.
Versus
Mrs. Lila Lall (Odied on 26/06/1996)
By L.R.
Dinesh Chandra and ors. : Respondents.

Mr. Abhishek Jebraj a/w Mr. M Prakash and Mr. Nikita Tilwani for the Applicant.
Mr. V B Topkar for the Respondent.

CORAM: K.K. TATED, J
DATED : FEBRUARY 01, 2019

P.C. :

1 Heard the learned counsel for the parties.

2 By this Civil Application the Applicant/original Respondent No.1 in Writ Petition No.1728 of 2013 seeks to vacate the stay granted by this court vide order dated 30/01/2014.

3 The learned counsel for the Applicant submits that this Court (Coram : Ranjit More, J) by order dated 30/01/2014 granted Rule in the Writ

Petition and granted prayer clause (c) of the Writ Petition during the pendency and final disposal of the Writ Petition. He submits that the Apex Court in the matter of ***Asian Resurfacing of Road Agency Pvt. Ltd v/s. Central Burueau of Investigation***, reported in ***2018 SCC OnLine SC 310*** held that if the interim relief continues for more than six months without any specific extension from the court, then that will automatically lapse. In support of his contention, the learned counsel for the Applicant relies on paragraph 38 of the said judgment which reads thus :-

> Thus, we declare the law to be that order framing charge is not purely an interlocutory order nor a final order. Jurisdiction of the High Court is not barred irrespective of the label of a petition, be it under Sections 397 or 482 Cr.P.C. or Article 227 of the Constitution. However, the said jurisdiction is to be exercised consistent with the legislative policy to ensure expeditious disposal of a trial without the same being in any manner hampered. Thus considered, the challenge to an order of charge should be entertained in a rarest of rare case only to correct a patent error of jurisdiction and not to re-appreciate the matter. Even where such challenge is entertained and stay is granted, the matter must be decided on day-to-day basis so that stay does not operate for an unduly long period. Though no mandatory time limit may be fixed, the decision may not exceed two-three months normally. If it remains pending longer, duration of stay should not exceed six months, unless extension is granted by a specific speaking order, as already indicated. Mandate of speedy justice applies to the PC Act cases as well as other cases where at trial stage proceedings are stayed by the higher court i.e. the High Court or a court below the High Court, as the case may be. In all pending matters before the High Courts or other courts relating to PC Act or all other civil or criminal cases, where stay of proceedings in a pending trial is operating, stay will automatically lapse after six months from today unless extended by a speaking order on above parameters. Same course may also be adopted by civil and criminal appellate/revisional courts under the jurisdiction of the High

> Courts. The trial courts may, on expiry of above period, resume the proceedings without waiting for any other intimation unless express order extending stay is produced."

4 On the basis of these submissions and the authority of the Apex Court, the learned counsel for the Applicant submits that the interim protection granted by this Court by order dated 30/01/2014 is required to be vacated.

5 In the alternative to prayer clause (a) of the Writ Petition, the learned counsel for the Applicant submits that the hearing of the Writ Petition may be expedited as the same is pending for last more than six years before this Court.

6 I heard the learned counsel for the parties at length.

7 A bare perusal of the order dated 30/01/2014 passed by this Court shows that after hearing both the sides i.e. the Petitioner as well as the Applicant herein (the original Respondent No.1) the same was passed. The order dated 30/01/2014 clearly shows that during pendency and final disposal of the Writ Petition, this Court has granted interim relief in terms of prayer clause (c). Therefore there is no question of vacating the said order on the basis of authority cited by the Applicant/original Respondent No.1 in the matter of ***Asia Resurfacing of Road Agency Pvt. Ltd.'s*** case (supra)

8 In so far as the another prayer made by the Applicant for early hearing of the Writ Petition is concerned, considering the submission made by the learned counsel for the Applicant/original Respondent No.1, and as the matter is pending since 2013, I satsify that the hearing of the Writ Petition needs to be expedited. Hence the following orderr.

a. Prayer clause (a) of the Civil Application stands rejected which reads thus :-

> (a) This Hon'ble Court may be pleased to vacate the stay granted by this Hon'ble Court vide order dated 30.01.2014 in Writ Petition No.1728 of 2013 in Special Civil Suit No.2084 of 1995 subject to deletion of prayer clause (2) in Civil Suit No.2084 of 1995.

b. The hearing of the Writ Petition No.1728 of 2013 is expedited.

c. The Registry is directed to place the Writ Petition No.1728 of 2013 on the weekly board as per its turn in the expedited matters.

d. The Civil Application is disposed of.

e. No order as to costs.

(K.K. TATED, J.)