

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CONTEMPT PETITION NO. 49 OF 2019

IN

WRIT PETITION NO. 5345 OF 2016 (D)

Baban Ramchandra Shukla

Vs.

Parag s/o Arvind Shukla and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S.W. Kolhe, Advocate h/f Mr. S.R. Desphande, Advocate for the
petitioner.

CORAM : MANISH PITALE, J.

DATED : JANUARY 24, 2020

This contempt petition has been filed by original defendant who had filed writ petition no.5345/2016.

2. By the said writ petition the petitioner had challenged concurrent orders passed by two Courts below whereby temporary injunction had been granted in favour of the respondents. This Court, by order dated 20.02.2017, dismissed the writ petition recording that no ground was made out for interference with the impugned order. But, while dismissing the writ petition this Court took into consideration that the petitioner is a senior citizen and accordingly directed the trial Court to dispose of the civil suit within a period of nine months.

3. Subsequently, on a letter sent by the trial Court requesting for extension of time to dispose of the suit, order dated 15.12.2017 was passed by this Court extending the time by nine months.

4. It is the contention of the petitioner herein that despite the direction to dispose of the suit in time bound manner, the respondents (plaintiffs) are not cooperating with the Court below and they have not entered in a witness box. As a consequence, the petitioner is unable to cross-examine them and the matter is languishing before the Court below. This is stated to be the reason for the petitioner to approach this Court by filing present contempt petition against the respondents.

5. On the face of it, the present contempt petition is wholly misplaced and it cannot be entertained by this Court, in the facts and circumstances of the present case. Nonetheless, it is distressing that the suit is pending before the trial Court is not disposed of despite orders passed by this Court for disposal of the same in time bound manner. Non cooperation by either of the party cannot be a ground for the trial Court not to adhere to the time limit granted by this Court or allow matters to languish without any decision. The petitioner can move appropriate application before the trial Court for

dismissal of the suit due to non appearance of the respondents in terms of the procedure prescribed in the Code of Civil Procedure. If any such application is moved by the petitioner, the trial Court shall take up the said application immediately and dispose of the same in accordance with law. In any case, the trial Court is directed to dispose of the suit, if not already disposed of, within a period of three months.

6. The contempt petition is disposed of in above terms.

JUDGE

srwagh