

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

920 WRIT PETITION NO.9712 OF 2019

**SANGEETA VENKATESH KSHIRSAGAR
VERSUS
VENKATESH DEVIDASRAO KSHIRSAGAR**

Mr. Satish S. Manale, Advocate for the petitioner
Mr. G. L.Deshpande, Advocate for the respondent

CORAM : N. J. JAMADAR, J.

DATE : 12-03-2021

P. C.

. Heard learned counsel for the petitioner and learned counsel for the respondent.

2. The challenge in this writ petition is to an order dated 23-04-2019 whereby the learned Civil Judge, Omarga was persuaded to reject the application (Exh.18) preferred by the defendant-petitioner seeking permission to deposit costs of Rs.300/-. Learned Judge was of the view that since the defendant-petitioner was directed to pay costs of Rs.600/- out of which Rs.300/- was to be credited to the State and the defendant had not paid costs to the plaintiff, the prayer seeking permission to deposit Rs.300/- only was not in accordance with order of the court on the application (Exh.16), whereby the ex-parte order dated 14-08-2017 was set aside subject to payment of aforesaid costs. The learned Judge was

also of the view that since the costs was not deposited till 15-06-2018, the order dated 26-04-2018 stood automatically vacated. Hence, the petitioner is before this court.

3. By an order dated 05-08-2019, this court had directed the petitioner-defendant to deposit an amount of Rs.5,000/- before the trial court and on the condition of said deposit order impugned herein was stayed.

4. Learned counsel for the petitioner submits that the petitioner has deposited the said amount of Rs.5000/-.

5. It is distressing to note that a trivial matter of non-deposit of costs of Rs.600/- within stipulated period has reached this court. In the process of adjudication, a little lapse on the part of the parties is required to be viewed with a sense latitude. Strict insistence on observance of timeline, at times, leads to consequences which do not promote cause of justice. Refusal to condone the lapses and inaction, which are not designedly intentional, culminate in a situation like the one at hand, where the the parties were made to spend time, efforts and resources in prosecuting the proceeding up to this Court. Life span of the proceeding got unnecessarily extended. The trial court ought to have considered the desirability of exercise of the discretion in the light of provisions contained in Section 148 of the Code of Civil Procedure, 1908.

6. In the circumstances, it would be expedient to put an end to the matter by directing that the amount of Rs.5,000/- deposited by the petitioner-defendant shall be costs for setting aside ex-parte order dated 14-08-2017 and the respondent-plaintiff is permitted to withdraw the sum of Rs.2000/- out of the said costs and balance amount of Rs.3000/- is credited to the account of Taluka Legal Services Committee, Omarga.

7. The impugned order dated 23-04-2019 stands set aside with aforesaid modification in the amount costs and apportionment thereof.

8. The petition stands allowed in the aforesaid terms.

[N. J. JAMADAR, J.]