

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

934 WRIT PETITION NO.10905 OF 2018

ANANT NARADRAO PORE
VERSUS
VAIJINATH NARADRA PORE AND ORS

...

Advocate for Petitioner : Mr N.R. Thorat h/f Mr Girish B.Kadlag
Advocate for Respondent No.1 : Ms Pallavi P.Wangikar h/f Mr R.V. Gore

CORAM : SANDEEP V. MARNE, J.
DATE : 8th DECEMBER, 2022

PER COURT :

1. By this petition, petitioner challenges order dated 29.03.2018 passed by the 2nd Jt. Civil Judge Junior Division, Aurangabad rejecting petitioner's application for setting aside "No Cross" order dated 21.02.2018.
2. Earlier also, "No Cross" order was passed against petitioner and the same was set aside by imposing costs of Rs.1,000/-. Petitioner was so negligent that he did not bother to pay that costs of Rs.1,000/- and took a chance before the trial court resulting in another "No Cross" order passed on 21.02.2018.
3. The above conduct exhibited by petitioner has resulted in filing of the present petition which has been pending for the last four years in which the proceedings in the suit are stayed.

4. Petition is strenuously opposed by Ms Pallavi Wangikar holding for Mr R.V. Gore, learned counsel appearing for the respondent No.1.

5. Only for the purpose of facilitating expeditious disposal of the suit which is pending since the year 2013 and because, petitioner has deposited an amount of Rs.6,000/- in pursuance of order passed by this Court on 29th September, 2018, I am inclined to grant one more opportunity to petitioner purely by way of indulgence. However, the same would entail payment of additional costs.

6. Accordingly, the writ petition is allowed. The order dated 29.03.2018 passed by the 2nd Jt. Civil Judge, Junior Division, Aurangabad on application below Exh. 93 is set aside and petitioner's application at Exh. 93 shall stand allowed in terms of prayers made therein. Petitioner to pay costs of Rs.15,000/- to respondent No.1. Respondent No.1 shall be at liberty to withdraw the amount of Rs. 6,000/- deposited in this Court in pursuance of order dated 29th September, 2018 with accrued interest thereon. The balance amount of Rs.9,000/- shall be deposited by petitioner before the trial court within a period of four week from today, with a liberty to respondent No.1 to withdraw the same.

[SANDEEP V. MARNE, J.]

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