

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

CIVIL APPLICATION (CAN) NO.14 OF 2022
IN
CONTEMPT PETITION NO.332 OF 2019 (D)
IN
CRIMINAL WRIT PETITION NO.656 OF 2016 (D)

Ku. Savita d/o Prabhakar Rohankar

Vs.

Deepak s/o Rajpalsingh Thakur and another

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

Court's or Judge's orders

Petitioner in-person.

Mr. S. S. Dhengale, Advocate for respondent no.1.

Ms. S. Haider, AGP for respondent no.2.

CORAM : AVINASH G. GHAROTE, J.

DATE : 07/03/2022

Civil Application (CAN) No.14 of 2022.

The application seeks leave to permit the contemnor to deposit the costs of litigation of Rs.25,000/- by demand draft dated 18.12.2021 with the Registry of this Court. The same is vehemently opposed by the petitioner/applicant appearing in person contending that the violation of the direction as contained in the order dated 29.11.2021 (para 14), which directed the contemnor to pay Rs.25,000/- to the petitioner as the cost of litigation, within four weeks thereof, would again amount to contempt. She therefore submits, that the permission ought not to be granted and the contemnor be punished for contempt of the direction as contained in para 14 of the order dated 29.11.2021.

2. A perusal of para 14 of the order dated 29.11.2021 would indicate, that though direction has been granted to the contemnor to pay Rs. 25,000/- to the petitioner, as cost of litigation within four weeks, the consequence of not doing so, are also provided therein by making such non payment recoverable as arrears of land revenue by filing proceeding before the Collector, Akola. It is thus apparent, that non payment of the costs within the time stipulated in para 14 of the order dated 29.11.2021, would not amount to contempt.

3. Mr. Dhengale, learned counsel for the respondent no.1 submits, that the demand draft was ready on 18.12.2021, the original of which is filed with the pursis tendered across the bar today, which is accepted and marked as 'X' for the purpose of identification. The contention for delay is that there were Christmas Vacations, and therefore, the same could not be tendered within time. However, it is material to note, that the Civil Application No.14 of 2022, is dated 02.02.2022, which again indicates, that the same was not filed within a reasonable time, even considering the above said plea. The order dated 29.11.2021, notes the reason for awarding cost of the litigation to the petitioner as the attitude of the contemnor which has forced the petitioner to run from pillar to post and from Court to Court, which attitude, in view of the subsequent conduct appears to persist, and therefore, any permission to deposit the aforesaid demand draft or the extension of time, could only be at a cost for the reason, that the

petitioner states, that she has already filed proceedings before the Collector, Akola, for recovery of the aforesaid cost of litigation and is also required to appear before this Court today, in view of the application filed by the contemnor.

4. Considering the above position, the contemnor is permitted to deposit the demand draft in the Registry of this Court and the amount of the same be paid over to the petitioner. The same however, is subject to the cost of Rs. 5,000/-, which shall be deposited by the contemnor, in the Registry of the Court by 10.03.2022, upon being deposited the same, the costs be paid over to the petitioner.

Civil Application is allowed.

JUDGE

Sarkate