

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

WRIT PETITION NO. 1033 OF 2020

Shikshak Sahakari Bank Ltd., through its Branch Manager, Nagpur

vs.

M/s. I. T. World, Nagpur through its Managing Director
Mr. Vinod N. Verma and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. N. L. Jaiswal, Advocate for petitioner.
Mr. Sahil Dewani, Advocate for respondent No.1.

CORAM : MANISH PITALE J.

DATE : 13/09/2022

By this petition, the petitioner – bank has challenged order dated 21/01/2020, passed by the Court of District Judge – 6 Nagpur, whereby a condition was imposed on the petitioner – bank to deposit an amount of Rs.17,19,360/- in the said Court towards security of the decretal amount as a condition for stay of decree dated 14/02/2019 passed by the 8th Joint Civil Judge, Senior Division, Nagpur in Summary Civil Suit No. 140 of 2007.

2. While issuing notice in this petition, this Court passed the following order on 25/02/2020 :-

“Heard learned counsel for the petitioner.

It is submitted on behalf of the petitioner that instead of imposing condition of depositing an amount of Rs.17,19,360/-, the Court below could have imposed a reasonable condition while exercising power under Order 41, Rule 5 of the Code of Civil Procedure for granting stay of the decree passed against the petitioner.

The statement made on behalf of the petitioner is that it is ready to furnish bank guarantee of the aforesaid amount within a reasonable period, instead of depositing the entire amount.

Considering the statement made on behalf of the petitioner, issue notice to the respondents for final disposal, returnable in six weeks.

In the meanwhile, the impugned order shall remain stayed, subject to the petitioner furnishing bank guarantee in the Court below for the said amount of Rs.17,19,360/- within a period of four weeks from today.

It is made clear that if the petitioner fails to furnish the aforesaid bank guarantee within the stipulated period of time, interim order granted by this Court shall stand vacated.

Hamdast granted.”

3. It is an admitted position that in pursuance of the aforesaid interim order passed by this Court, the petitioner – bank indeed furnished bank guarantee for the amount of Rs.17,19,360/- before the Court below.

4. Although the learned counsel for the rival parties made submissions in support of their respective stands, this Court is of the opinion that it would be appropriate for the Court below to decide the pending appeal expeditiously while the interim order passed by this Court is made absolute, during the pendency of the appeal before the Court below.

5. In view of the above, the impugned order passed by the Court of District Judge in Regular Civil Appeal No.325 of 2019 dated 21/01/2020, stands modified to the effect that the judgment and decree dated 14/02/2019 passed by the Court of 8th Joint Civil Judge, Senior Division, Nagpur in Summary Civil Suit No.140 of 2007 shall remain stayed, subject to the aforesaid bank guarantee for an amount of Rs.17,19,360/- furnished by the petitioner – bank before the Court below is kept alive during the pendency of the appeal.

6. The Court below is directed to decide the appeal expeditiously and in any case within **six months** from today.

JUDGE