

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

WRIT PETITION NO.5655 OF 2017

Krishnanand s/o Ruplal Satdewe

Vs.

Shashank s/o Govind Prasad Pande

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

Court's or Judge's orders.

Ms R.A. Deshpande, Advocate for petitioner.
Shri S.L. Kotwal, Advocate for respondent.

CORAM : AMIT B. BORKAR, J.

DATE : 14th JUNE, 2022.

By this petition under Article 227 of the Constitution of India, the petitioner is challenging the order dated 12.06.2017 passed by the learned District Judge-14, Nagpur in Miscellaneous Civil Application No.596 of 2014.

2. The petitioner is a tenant against whom Regular Civil Suit No.150 of 2010 was filed under the provisions of Maharashtra Rent Control Act (for short "the said Act") for recovery of possession under Sections 15 and 16(1)(g). Though, petitioner appeared in the said suit, he failed to remain present in the said suit after filing written statement. He made no attempt to recall order no evidence passed against him. On 01.11.2012, decree of eviction was passed against the petitioner holding that the landlord requires suit premises *bonafide* and reasonably. The trial Court also recorded findings in paragraph 15, which reads as under:

“15. Nuisance caused by the defendant by filing various suit and impediments together with Civil litigation brought on record, and result of that litigation is in dismissal against the plaintiff, clearly and sufficiently established tactics to harass the plaintiff. Therefore, suit claim on the counts nuisance clearly proved due to which suit needs to be decreed on the ground of nuisance.”

3. Though, the decree for possession was passed on 01.11.2012, an application for condonation of delay and appeal challenging the decree was filed on 20.09.2014. The learned lower appellate Court by recording detailed reasons rejected the said application for condonation of delay. The petitioner has therefore challenged said order by way of present petition.

4. I have heard the learned Advocate for the petitioner. She submitted that approach of the Court while considering application for condonation of delay ought to have been liberal and at the most the learned lower appellate Court could have imposed costs to compensate the landlord.

5. The Advocate for the respondent submitted that the conduct of the tenant is not *bonafide*. He invited my attention to paragraph 16 of the impugned judgment, where learned trial Court has recorded categorical finding that the tenant is harassing the landlord. He invited my attention to

the reasons given by the learned lower appellate Court in the impugned order and supported the said order.

6. Having considered the submissions on behalf of both sides, it appears that the tenant was not at all interested in contesting the decree. His conduct reflected in paragraphs 18 to 19 of the impugned order explains in detail as to how the tenant was not interested in contesting the decree. The tenant has neither cross-examined the landlord nor he has contested the proceedings of eviction. There is delay of 659 days in filing the appeal. Considering the facts on record, it cannot be said that the appellant was not having knowledge about passing of decree against him. The learned lower appellate Court has recorded finding of suppression the material facts by the applicant.

7. For the above reasons, I am of the considered view that the learned lower appellate Court has not committed any error of jurisdiction in rejecting the application for condonation of delay. There is no merit in the petition, the petition is therefore **dismissed**. No costs.

JUDGE

Wagh