

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9087 OF 2022

Dnyandeo Bhimrao Alhat

.. Petitioner

Versus

Giddayya Mukkappa and Ors.

.. Respondents

-
- Mr. Paras Yadav, Advocate for Petitioner
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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 03, 2023.

P.C.:

1. Heard Mr. Yadav, learned Advocate for Petitioner.
2. On 14.02.2023 this Court has passed the following order:

“ 1. Heard Mr. Yadav, learned Advocate for Petitioner.

2. Perused the order dated 04.02.2022 passed below Exh.5 in R.C.A. No. 106 of 2021 by the learned Ad-hoc District Judge-4, Pune.

3. The execution and operation of the judgment and decree passed in Special Civil Suit No. 1485 of 2014 has been stayed in the application below Exh.5 on certain conditions which read thus:

i. The appellant shall pay monthly compensation of Rs.4,000/- from 10.10.2019 till disposal of appeal.

ii. The compensation amount of period from 10.10.2019 to 28.02.2022 to be deposited on or before 10.03.2022.

iii. Further compensation from the 1st March, 2022 shall be deposited on or before 10th of each succeeding month till disposal of appeal.

4. Mr. Yadav would submit that the total amount of compensation from 10.10.2019 till February-2023 is

Rs.1,60,000/-. He has taken instructions from the Petitioner and submitted that an amount of Rs.80,000/- shall be deposited in this Court within two weeks. He further submits that the balance amount of Rs.80,000/- shall be deposited within a period of four weeks thereafter.

5. Petitioner is directed to file an undertaking with respect to the aforesaid statement for deposit of the amounts as directed in this Court. Undertaking shall be filed within one week from today.

6. In the meanwhile, from March-2023, Petitioner is directed to comply with Clause-(iii) of the operative part of the impugned order regularly without default. Undertaking to this effect shall also be filed. Subject to the aforementioned undertaking to be filed by the Petitioner and the amounts to be deposited the impugned order shall stand stayed.

7. In view of the above, issue notice to Respondents. Petitioner is directed to serve the unserved Respondents. Humdast permitted. In addition to Court's notice Petitioner is directed to serve the Respondents and inform them the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof. After receiving notice, Respondents to file their affidavit-in-reply on or before the next date.

8. If the amount of Rs.80,000/- is deposited within two weeks, this Court shall pass appropriate directions to permit withdrawal of the said amount by the Respondents on the next date.

*9. Stand over to **28th February, 2023** 'for compliance'."*

3. Mr. Yadav would submit that as an officer of the Court it is his duty to inform the Court that the Petitioner has not complied with any of the directions given by this Court namely directions contained in paragraph Nos.4, 5 and 6 of the aforesaid order. He would submit that the Petitioner is a daily wage worker and unable to deposit any amounts as also file the undertaking which were in fact given on his own instructions to the Court. Hence there is non-compliance of the order dated 14.02.2023.

4. I have perused the impugned order dated 04.02.2022 passed below Exh.5 in R.C.A. No. 106 of 2021. The said order is a self operative order in as much as in the event if the Petitioner would not comply with the conditions prescribed by the learned Appellate Court and this Court, the execution and operation of the judgment and decree passed in Special Civil Suit No. 1485 of 2014 dated 10.10.2019 shall become effective.

5. In view of the above, the Petitioner is not entitled to any relief in the present Writ Petition.

6. Writ Petition is dismissed.

[MILIND N. JADHAV, J.]

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