

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.19288 OF 2022
IN
WRIT PETITION NO.5542 OF 2022**

Madhukar Shripati Kamale Applicant

versus

Vijay Sudhakar Ronghe Respondent

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- Mr. Mufeez Ansari i/b. Vikas B. Shivarkar, Advocate for Applicant.
- Mr. Purushottam G. Chavan, Advocate for Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 28th APRIL 2023**

P.C. :

1. In this application, the Applicant has prayed for condonation of delay of 3 months and 15 days in depositing the amount before the Appellate Court, which is reflected in the order dated 04/05/2022 passed in Writ Petition No.5542 of 2022 by this Court (Coram : Nitin W. Sambre, J.). His other prayer is for permission to deposit Rs.1,00,000/- towards the cost and for directions to the Appellate Court.

2. Heard Mr. Mufeez Ansari, learned counsel for the Applicant and Mr. Purushottam Chavan, learned counsel for the Respondent.

3. The Writ Petition No.5542 of 2022 is already disposed of vide order dated 04/05/2022. This application is filed in a disposed of Petition. The order dated 04/05/2022 is strong enough and is self explanatory. To repeat the facts mentioned in that order, it can be seen that the Petition was filed by the Original Appellant before the District Court, Pune, in Civil Appeal No.390/2017. The Appeal was dismissed for want of prosecution on 23/10/2019. The Appeal was directed against the Judgment and Decree dated 29/04/2017 passed against the present Applicant. The Applicant was the Original Defendant. The Plaintiff had sought setting aside of the sale deed dated 10/05/2012 and the agreement of sale dated 06/02/2012. The documents were ordered to be set aside. The Respondent herein i.e. the Plaintiff was permitted to deposit an amount of

Rs.7,10,000/- towards balance consideration of the suit property, so as to get the sale deed of the suit property executed in his favour. The Applicant/Defendant challenged this decree in Appeal filed with delay.

4. The order passed by this Court further mentions that the counsel for the Petitioner (i.e. the Applicant herein) on instructions had volunteered to pay cost of Rs.1,00,000/- to be deposited in the Trial Court within a period of six weeks from 04/05/2022. The statement was accepted as an undertaking to this Court. Subject to deposit of the aforesaid cost, the impugned order dated 06/10/2021 was set aside in view of the consent extended by the counsel for the Respondent. A further statement was made on the part of the Applicant that along with the cost, he would file his written notes of arguments in the Appeal and shall not seek further adjournment. This statement was accepted as an undertaking. It was specifically directed that if the aforesaid undertakings were not complied with by the Petitioner, in its letter and spirit, the Appellate Court shall pass

consequential order of non-compliance of the said order dated 04/05/2022 and accordingly the Court below was permitted to proceed ahead with the execution of the decree.

5. This order is not complied with in its letter and spirit. No reasons can justify non-compliance of the said order. The history shows that the Applicant has been delaying the matter at all stages by different means. This cannot be tolerated further. Therefore, I am not at all inclined to grant any relief in this application. The application is accordingly dismissed.
6. The Executing Court shall take steps expeditiously in accordance with law.

(SARANG V. KOTWAL, J.)