

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

WRIT PETITION NO. 2793 OF 2023

Amarjeetsingh Harmendrasingh Bhatia, :
Aged 34 years, Occu. Business,
R/o Kotwali Ward, Near Ramdeo Baba **PETITIONER**
Temple, Chandrapur, Dist. Chandrapur

VERSUS

Rajendra Ramlal Jaiswal, :
Aged about 66 years, Occu. Business &
Cultivation, **RESPONDENT**
R/o Sarkar Nagar, Chandrapur,
Dist. Chandrapur

Mr. A.M. Chandurkar, Advocate for petitioner
Mr. A.A. Dhawas, Advocate for Respondent

CORAM : AVINASH G. GHAROTE, J.

DATE : **8th JUNE, 2023**

ORAL JUDGMENT

Rule. Rule is made returnable forthwith.

Heard finally with the consent of learned counsel
appearing for rival parties.

2. Mr. A.A. Dhawas, learned counsel waives
notice for respondent.

3. The petition question the order dated 02/02/2023, passed by the learned 5th Jt. Civil Judge, Senior Division, Chandrapur by which an interim stay to the execution of the decree dated 16/6/2022, passed in Summary Civil Suit No. 5/2021 is sought to be stayed. Though by the impugned order a stay has been granted, the challenge is limited to the condition imposed while granting the stay, which requires the petitioner to furnish bank guarantee and one or more solvent sureties to the extent of decretal amount within a period three weeks.

4. Mr. Chandekar, learned counsel for the petitioner submits that the condition is too onerous and it is not possible to the petitioner to comply with the same. It is contended that to secure the decretal amount, the same can be done by other modes also, for which upon instructions of the petitioner, he offers to deposit 50% of the decretal amount in the Court to be kept in the interest

carrying fixed deposit and furnish two solvent sureties for the balance amount. Though the same is opposed by Mr. Dhawas, learned counsel for the respondent, however, any condition for grant of stay, should be reasonable and not onerous, considering which, the contention is accepted and the order dated 02/02/2023 passed below Exh.5 is hereby modified and the petitioner is directed to deposit 50% of the total decretal amount of Rs.55,65,655/- (as on 27/4/2023) in the Court below within a period of 15 days from today and to furnish a solvent surety for the balance amount to the satisfaction of the Registrar of the Court below within the aforesaid period. The amount so deposited shall be invested in an interest carrying fixed deposit till the decision of MJC No.296/2022. The petition is accordingly partly allowed in above terms. No costs.

Rule is made absolute in above terms.

JUDGE

MP Deshpande