

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

WRIT PETITION NO. 3137 OF 2021

Satish Govindrao Khalashe __ Vs. __ Dilip Namdeo Nargrale and ors

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

Court's or Judge's orders

Mrs. Prajakta S. Chaudhari, Advocate for petitioner
Mr. K.R.Lule. Advocate for respondent Nos. 1 to 6

CORAM : AVINASH G. GHAROTE, J.
DATE : 15/03/2023

1] Heard Mrs. Chaudhari, learned counsel for the petitioner and Mr. Lule, learned counsel for the respondent.

2] The petition questions the condition imposed in the order dated 3.10.2018 passed by the learned Appellate Court, of depositing costs of the proceedings, as a condition for grant of stay (pg.55) as well as the order in review dated 15.11.2019, rejecting the review.

3] It is contended that since the judgment and decree of the Trial Court directs the parties to bear their own costs, the learned Appellate Court could not have imposed the said condition.

4] I am afraid, I am not able to agree with this contention for the reason that while granting

stay in exercise of powers under Order 41 Rule 5 of CPC, the Appellate Court is empowered to impose such terms and conditions, as may be deemed fit which would include a condition imposing monetary terms. Merely because the word “costs” is used, that would not change the colour and texture of the condition. The decree indicates that the costs of the defendant was approximately Rs.20,000 and therefore deposit of this amount as a condition for grant of stay cannot be found fault with. No other argument is advanced, considering which I do not see any reason to interfere with the impugned orders. The petition is therefore dismissed. No costs.

JUDGE

Rvjalit