



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.13166 OF 2024
IN
CIVIL APPLICATION NO.5549 OF 2018

Santosh Radhakishanji Ladda

...Applicant

Versus

Gangadhar Dada Gaikwad (Died),
through his L.Rs. Jayabai Khanderao Kolhe & Ors.

...Respondents

Adv. P. N. Kalani h/f. Adv. Jagdish G. Toshniwal for Applicant.

Adv. Akram Inamdar h/f. Adv. S. S. Kazi for Respondent No.1E.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : 11th DECEMBER 2024.

P.C.:-

1. Heard Mr. Kalani, learned Advocate for the Applicant and Mr. S. S. Kazi, learned Advocate for Respondent No.1E.

2. Mr. Kalani submits that the Applicant had filed civil revision application assailing the order dated 17th July 2017, passed below Exhibit-103 in Regular Civil Suit No.451 of 2000 pending before learned Joint Civil Judge, Junior Division, Vaijapur, District Aurangabad. This Court while issuing notice to the Respondents under Order dated 24th April 2018 directed that proceedings in Regular Civil Suit No.451 of 2000 be kept in abeyance. However, Applicant was

directed to deposit an amount of Rs.50,000/- in this Court to show his bonafides without prejudice to the rights and contentions.

3. The continuation of the interim relief was subjected to condition of deposit of amount within a period of four weeks.

4. Mr. Kalani submits that later on, there was settlement between parties out-side the Court. The Plaintiff lost his interest in prosecuting civil revision application. Consequently, CRA suffered dismissal for want of prosecution vide order dated 1st August 2024. Mr. Kalani, however, fairly admits that suit is still pending. The Applicant has deposited the amount of Rs.50,000/- in pursuance to directions given by this Court under order dated 24th April 2018 vide receipt No.2546 dated 4th May 2018. The said amount is laying with Registry of this Court.

5. Mr. Kalani submits that although Applicant has employed prayer clause (b) seeking restoration of civil revision application, he would not press same but only seeks permission to withdraw amount of Rs.50,000/- deposited by Applicant.

6. Having considered submissions, it appears that this Court was pleased to issue notice to Respondents under Order dated 24th April 2018 and also directed that suit be kept in abeyance. Apparently, Court was cautious that interim any order passed in CRA would halt

proceedings in R.C.S. No.451 of 2000, therefore, specific condition was imposed to deposit an amount of Rs.50,000/- to check bonafides of Applicant. The Applicant abided by condition, accordingly, on 4th May 2018, deposit of Rs.50,000/- is made.

7. Later on, civil revision application was protracted for want of service of notice of Respondents, eventually, proceedings in civil suit was protracted. The Applicant failed to take necessary steps or diligently prosecute civil revision application. Consequently, it suffered dismissal under Order dated 1st August 2024.

8. Although, Applicant is not seeking restoration of CRA or not pressing the prayer clause (b) in this application, the fact remains that apprehension of this Court while issuing notice on 24th April 2018 turned to be true and the proceedings in suit has been protracted because of the Applicant. Although, Mr. Kalani submits that later on, settlement has arrived between the parties, no particulars of such settlement are brought on record of this Court. In these circumstances, it would not be appropriate to permit the Applicant to withdraw entire amount deposited by him.

9. At this stage, Mr. Kalani volunteers that Applicant would donate interest accrued on amount in deposit to Library, Advocates

Association of High Court Bombay, Bench at Aurangabad and claims refund of principal amount only.

10. In that view of the matter, following order is passed:-

- (i) Civil application is partly allowed.
- (ii) The prayer for restoration of civil revision application is rejected as not pressed. The Applicant shall be entitle to withdraw principal amount of Rs.50,000/- deposited with registry on 4th May 2018. The interest amount accrued on deposit shall be transferred Advocate's library.
- (iii) Civil application stands disposed of.

(S. G. CHAPALGAONKAR, J.)