

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13008 OF 2024

Audyogik Nidhi/Paisa Fund, a
registered Public Charitable Trust
and Ors.

...*Petitioners*

V/s.

Anant Vasudeo Limaye and Ors.

...*Respondents*

Mr. Ketan Joshi *for the Petitioners.*

Mr. Atharva Dandekar *for the Respondents (through VC).*

CORAM : SANDEEP V. MARNE, J.

Dated : 21 October 2024.

P.C. :

1. Petition challenges order dated 8 August 2024 passed by the learned District Judge-15, Pune, allowing application at Exhibit-31 filed by the Plaintiff /Respondent for leading additional evidence under Order XLI Rule 27 of the Code of Civil Procedure, 1908 (**the Code**).

2. The main grievance of the Petitioners /Defendants is that in the Minutes of Order dated 22 March 2024, parties had expressly agreed not to lead any oral evidence for decision of the Appeal.

3. Mr. Dandekar, the learned counsel appearing for the Respondent /Plaintiff would dispute this position and would submit

that the fetter in paragraph 6 of the Minutes of Order was only for the Defendants from leading oral evidence to prove the documents, which were then sought to be produced before the Appellate Court. He would submit that the concession recorded in paragraph 6 of the consent minutes of order applied only to the Defendants and that the said concession would not mean Plaintiff is precluded from leading any additional evidence which is relevant for decision of additional issues framed by this Court on 22 March 2024. While Mr. Dandekar would not be entirely wrong in contending so, and while the Plaintiff can have liberty of leading additional evidence even after passing of order dated 22 March 2024, the direction given by the Appellate Court to decide the Appeal in a time bound manner would obviously not operate. Plaintiff cannot have time limit imposed on the Appellate Court relying on his advanced age and thereafter delay decision of the appeal by filing application under Order XLI Rule 27 of the Code. The order was passed by this Court on 22 March 2024 directing decision of the Appeal by 31 July 2024. Few days before the said period was to end, Plaintiff was advised to file application under Order XLI Rule 27 of the Code on 22 July 2024. This obviously derailing the decision of the Appeal. The Appellate Court was then required to spend time in deciding the said application at Exhibit-31, which was ultimately allowed on 8 August 2024.

4. It appears that on account of reference made by the learned Appellate Court, this Court has extended the time limit for decision of the appeal by a period of three months from 6 August 2024.

5. Since Plaintiff himself is responsible for delaying decision of the appeal, in my view, time limit imposed by this Court for decision of

the Appeal would no longer apply. I am therefore, not inclined to interfere in the impugned order dated 8 August 2024. Writ Petition is accordingly **dismissed**. It is however clarified that there shall be no time limit for decision of the Regular Civil Appeal No.514 of 2016 and the learned Appellate Court shall proceed to decide the same as per its own schedule.

[SANDEEP V. MARNE, J.]