



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

CIVIL APPLICATION NO. 1482/2024 IN WRIT PETITION NO. 4561/2006

Rameshchandra Maganlal Gaglani .Vs. Sandeep Motels Pvt. Ltd. and anr.

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

Court's or Judge's orders

Mr. R. R. Dawda, Advocate for applicant.

Mr. V. A. Lohiya, Advocate for non applicant No.1.

CORAM : ANIL L. PANSARE, J.

DATE : SEPTEMBER 19, 2024

On 03.09.2023, following order was passed.

“ *Heard.*

2. *Vide order dated 20.2.2008, this Court in Writ Petition No. 4561/2006, while dismissing the Petition filed by the Non-Applicant/Original Plaintiff herein, directed the Applicant/ Respondent No.1 to pay costs of Rs. 1500/- to the Non-applicant within four weeks from the date of order.*

3. *The Respondent No.1, on 4/3/2008, deposited costs of Rs. 500/- before the trial court under the impression that this Court has awarded said costs. The suit thereafter got dismissed in default on 16/6/2008. The suit is now restored to file. The Applicant/Respondent No.1 realized that he was directed to pay costs of Rs.1500/-, and therefore, he made an attempt to deposit balance of Rs.1000/- with the trial court, however, the trial court refused to accept it and instructed the Applicant to seek extension of time, and therefore, present Application is filed.*

4. *On the strength of aforesaid submission, I do not find any reason why should Application seeking extension of time be not granted. However, the learned Counsel for Non-applicant seeks time to*

take instructions on the aforesaid aspect. Time granted. 5. Stand over to 19th September, 2024.”

Counsel for the non applicant has invited my attention to order dated 19.04.2008, passed by Trial Court, wherein the Trial Court has noted that vide order dated 20.02.2008, the High Court has, in Writ Petition No.4561/2006, directed the applicant/original defendant to pay additional costs of Rs.1500/- within four weeks i.e. on or before 19.03.2008. The Trial Court then noted that the applicant failed to comply aforesaid order.

It appears that on 04.03.2008, the applicant filed pursis to deposit Rs.500/-. The Trial Court passed an order asking the applicant to put up after filing High Court's order. The applicant, however, failed to comply the Trial Court's order so also the High Court's. Accordingly, the Trial Court proceeded to pass an order to proceed with the suit without taking into consideration the written statement of defendant (applicant herein).

Counsel for the non applicant submits that even if the applicant is permitted to deposit the balance amount of costs, the order to proceed in the suit without considering written statement having been not challenged, will stand as it is.

To my mind, the applicant has neither challenged the said part or order nor has counsel for applicant herein made any request to that effect and, therefore, there arises no question of setting aside the order to proceed without considering written statement passed by the Trial Court. What has been prayed by the applicant is to permit him to deposit balance amount of

costs on the count that after restoration of suit, he realised that this Court has directed the applicant to pay costs of Rs.1500/- and not Rs.500/-. Accordingly, he sought permission to deposit balance amount before Trial Court, which has been rejected for want of extension of time by this Court.

The sum and substance of above discussion is that the applicant is seeking permission to deposit balance amount of costs, which was directed by this Court to be paid vide order dated 20.02.2008. The applicant has, except for seeking permission to deposit the balance amount, not made any other request nor can any other request be considered only on the count that the applicant has been allowed to deposit the balance amount of costs.

In the circumstances, without going into the reasons assigned by the applicant to not deposit costs in time, his request to extend the time to deposit the balance amount of costs requires consideration, but with clear understanding that this permission shall not be taken as a ground for granting any other relief in the proceedings before the Trial Court. Time to deposit the balance amount is accordingly extended by three weeks from today.

The application is disposed of in terms of above.

(Anil L. Pansare, J.)