



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 4062 of 2019

[Sudhakar S/o Rajaram Sonatakke ..vs.. Bharat S/o Manohar Kumbhare]

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

Court's or Judge's orders

Mr. B. W. Patil, Advocate for the petitioner
Mr. A. S. Joshi, Advocate for the respondent

CORAM : ANIL L. PANSARE J.

DATED : 28-11-2024

Heard.

2. The petitioner-original defendant is aggrieved by order dated 20-4-2019 passed by 4th Joint Civil Judge Senior Division, Nagpur in Special Civil Suit No. 1209/2011 refusing to extend time to deposit the decretal amount.

3. Perused the order. The trial Court has rejected or refused to extend time on the ground that the order directing to deposit amount within a time was passed with consequential order.

4. The trial Court, while decreeing the suit in favour of respondent-plaintiff passed following order.

“(1) Suit is partly decreed with cost.

(2) Defendant is directed to pay the amount of Rs. 10 lakhs to the plaintiff within one month. In default, the said amount will carry interest @ 6% per annum from the date of the suit till realisation.

(3) Suit for specific performance of contract is dismissed.

(4) Decree be drawn accordingly.”

5. As could be seen, the petitioner-defendant was directed to pay amount of Rs. 10 Lakhs to the respondent – plaintiff within one month and in default to pay interest @ 6% per annum from the date of suit till its realisation and accordingly, the suit for specific performance of contract came to be dismissed. Thus the immovable property was retained by the petitioner-defendant.

6. The petitioner failed to deposit the amount as directed but approached the trial Court for extension of time when the trial Court was pleased to pass the impugned order.

7. Learned counsel for the petitioner has invited my attention to Section 148 of the Code of Civil Procedure, 1908 which reads thus :

“148. Enlargement of time. Where any period is fixed or granted by the Court for the doing of any act prescribed or allowed by this Code, the Court may, in its discretion, from time to time, enlarge such period, [not exceeding thirty days in total] even though the period originally fixed or granted may have expired.”

8. As could be seen, the trial Court could enlarge the period not exceeding 30 days in total. In the present case, the petitioner sought six months time, which the trial Court could not have granted. The trial Court, however, refused to extend the time on the ground that consequential order has been passed.

9. Section 148 does not compel the trial Court to extend the time. The trial Court thought it proper to not extend the time, considering the fact that consequential order is passed. Such approach cannot be said to be

perverse. No interference is, therefore, called for in writ jurisdiction. The petition is dismissed.

10. The amount deposited by the petitioner in terms of order dated 17-6-2019 be paid to the respondent along with interest, if any, upon making appropriate application with the Registry.

(Anil L. Pansare, J.)

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