



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

Writ Petition No.6758/2019
(C.G. Shashidharan V Habibkhan)

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

Court's or Judge's orders

Mr. A.S. Deshpande, Advocate for Petitioner.
Mr. R.D. Murkute, Adv for respondent.

CORAM : Abhay J. Mantri, J.
DATE : 04-04-2024.

Heard learned Advocate for both the parties. Perused
the impugned order and record.

2. The petitioner is challenging the order dated
31-08-2019, passed by the Jt. Civil Judge, Junior Division, Umred in
R.D. No.20/2010 below Exhibit 56, thereby granting compensation
of Rs. 1000/- per month to the decree-holder i.e. respondent herein.

3. On 11-10-2019, this Court has passed the following
order, as under :-

*“It is submitted by the learned Counsel for the
petitioner that in view of the decree passed by the trial Court
directing separate enquiry be held for determining the future
mesne profits which enquiry is yet to be held the Executing
Court was not justified in directing the petitioner to pay an
amount of Rs. 1,000/- per month from the date of the decree.*

Issue notice, returnable on 03.12.2019.

The petitioner shall deposit with the Executing Court an amount of Rs. 2000/- per month from September 2019 to show his bonafide. If such amount is deposited no coercive steps be taken to implement the impugned order.”

4. Learned Advocate for the petitioner submitted that the petitioner is ready to deposit an amount of Rs. 2000/- per month towards compensation before the trial Court to show his bonafide as directed in the said order and therefore he has prayed to continue with the order dated 11-10-2019 till filing of necessary application under Order 20 Rule 12 of the Code of Civil Procedure (CPC) for determining the mesne profit. He has also fairly submitted that he has no objection if permission is granted to withdraw the said amount by the respondents herein on filing the necessary undertaking before the Court. The learned Advocate for the respondent has not disputed the said proposition given by the learned Advocate for the petitioner.

5. Having considered the said fact, in my view, it would be appropriate to dispose of the matter instead of keeping pending, hence to meet the ends of justice I proceed to pass the following order.

The petition is disposed of as under.

- (a) The petitioner shall deposit an amount of Rs. 2000/- per month in the Executing Court as directed by an order dated 11-10-2019.
- (b) It is made clear that if the petitioner fails to deposit the said amount as undertaken within a period of two weeks from today, the above order shall cease automatically without further reference to the Court.
- (c) Needless to clarify, that by passing this order, no stay has been granted to the execution proceedings or the impugned judgment and order.
- (d) It is further made clear that if the respondent has filed an application under Order 20 Rule 12 of the CPC for determining the mesne profit in such an eventuality the amount which was deposited by the petitioner in the Executing Court shall be adjusted in the outcome of the said order.

(Abhay J. Mantri, J.)