

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12969 OF 2023

Kalidas Narsingrao Biradar

VERSUS

Amar Vitthalrao Biradar And Another

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Advocate for the Petitioner : Mr. Tukaram Maruti Venjane

Advocate for Respondent No.1 : Mr. Jarare Prasad Devidas

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CORAM : SIDDHESHWAR S. THOMBRE, J.

Dated : DECEMBER 22, 2025

PER COURT:-

1. Heard learned counsel for respective parties.
2. By way of present petition, the petitioner assails the order dated 24.07.2023 passed below Exhibit-65 by the learned Civil Judge Senior Division, Nilanga, District Latur in Regular Darkhast No.31 of 2017, whereby the Executing Court issued possession warrant whereby granting police aid.
3. Both counsels submit that initially, the suit filed by respondent no.1/original plaintiff came to be decreed. The suit was for cancellation of sale deed, possession and permanent injunction. As the suit was decreed, the original defendant no.2 preferred an appeal before the District Judge, Nilanga. As the appeal was not filed within limitation, therefore, the delay was caused and the present petitioner filed an application seeking condonation of delay in filing miscellaneous appeal. The learned Appellate Court allowed the said

appeal subject to deposit cost of Rs.25,000/-. Admittedly, though the order was passed on the delay condonation, the petitioner failed to deposit the amount within stipulated time. In the meanwhile, the learned Appellate Court granted *status quo* and that too subject to deposit cost of Rs.1,48,000/- during pendency of the delay condonation. The petitioner contended that the amount as ordered by the learned Appellate Court came to be deposited on the next day. But subsequently, as the delay application which was allowed subject to cost of Rs.25,000/-, the petitioner could not deposit the amount within stipulated time. Therefore, practically the delay application and the appeal was not in existence. Subsequently, the petitioner filed an application seeking permission to deposit an amount of Rs.25,000/- as ordered by the learned Appellate Court and the same is pending. In view thereof, both counsels consented for directing the Appellate Court to decide the miscellaneous application below Exhibit-22 whereby the petitioner seeks permission to deposit an amount of Rs.25,000/-. Both counsels submit that the purpose would be served if this Court direct the Appellate Court to decide the miscellaneous application within a reasonable period.

4. In view of the above, the petition is disposed of by directing the District Judge, Nilanga to decide the application below Exhibit-22 within a period of two months from today. The interim order granted by this Court to continue till the District Court decides miscellaneous application.

5. It is made clear that as this Court has granted interim protection, the same is continued till the Appellate Court decides the miscellaneous application below Exhibit-22. After decision on miscellaneous application, the interim protection granted by this Court would stand cancelled automatically.

6. All points kept open.

(SIDDHESHWAR S. THOMBRE, J.)