

MHKO170010502019



Cri.M.A.No. 84/2019
Vasant Abaso Gaikwad
Vs.
Prakash Vasant Gaikwad

ORDER BELOW EXH - 15

(Passed On This 10th of January, 2022)

This is an application by respondent for calling back the order of proceeding with his say. Petitioner objected the application. Heard, both the sides and perused the record.

2. It appears that, on 11.11.2019 respondent appeared and thereafter filed few applications seeking time to file say. Then, on 01.03.2021 case proceeded without say. On 24.11.2021 affidavit of petitioner is filed, on 01.12.2021 no-cross order came to be passed and on same day petitioner closed his evidence. Opportunity was given to respondent to lead evidence but he failed to lead. Hence, on 08.12.2021 case proceeded without his evidence. What is crucial is that, ground of Covid-19 pandemic and consequently lock-down will not come into picture here, because the lock-down was applied in last week of March 2020 whereas respondent appeared in present case four months prior to it i.e. on 11.11.2019 itself. Before lock-down the case was fixed on 09.12.2019, 08.01.2020 and 03.03.2020. Therefore, the aspect of Covid-19 and lock-down will not come to aid of respondent.

3. Why respondent appeared today with this application is also very important. As per order dt.08.12.2021, notice was issued to The Kodoli Urban Co-op. Bank Ltd. Kodoli, branch Bambawade for produce the salary-slip of respondent. Needless to say, respondent is serving in this bank. Letter dated 06.01.2022 is filed by the bank. From this letter it prima facie appears that, after receipt of notice to produce salary slip of respondent, the respondent filed an application dated by 13.12.2021 for obtaining loan of Rs.3,00,000/- and this loan

came to be disbursed on 05.01.2022. Surprisingly, on very next day i.e. 06.01.2022, the bank forwarded the salary-slip of respondent alongwith some absolutely unwarranted information about this loan. Needless to say, this Court only issued notice the bank to produce the salary slip of respondent and nothing in regard to loan or likely future deduction of respondent was asked for. When salary-slip of respondent was called for, he eventually appeared to file present application.

4. Sufficient opportunity was available with respondent to appear and file say, but he did not avail the same. Entire trial is concluded and the case is fixed for final arguments. At this stage present application came to be filed. Therefore, considering the delay so caused this respondent does not deserved any opportunity to contest this petition. However, considering the fact that some period in between was consumed by the lock-down and consequential unlock, I think that a last opportunity must be given to respondent to file the say and contest this petition. However, the delay so caused is huge and hence the cost of Rs.3000/- must be imposed. So also, additional condition shall be imposed on respondent that, this case will be tried by keeping dates in every week and adjournment to respondent will not be granted. Respondent must be prepared to conduct the matter on every date without fail. On this condition, the order dated 01.03.2021 to proceed without say of respondent is re-called subject to cost Rs.3,000/- to be paid to petitioner. After the payment of cost and on above mentioned conditions, the say already placed on record will be read and recorded. With these conditions, present application is allowed.

Panhala.
Date 10.01.2022

Sd/-
(**Ritesh R. Mawatwal**)
Judicial Magistrate First Class,
Court No.01, Panhala, District Kolhapur.

-: CERTIFICATE :-

I affirm that the contents of the P.D.F. file order/Judgment are same, word to word, as per the original Order/Judgment.

Name of the Stenographer	Shri. G.S. Shinge
Name of Court	Shri. Ritesh R. Mawatwal CJJD & JMFC Panhala
Date of Dictation	10.01.2022
Order signed by the P.O. on	11.01.2022
Order uploaded on	11.01.2022