

Yeshoda and Another

Vs

K. Nagarajan

SLP (C) No. 18603 of 1996

(K. Ramaswamy, S. B. Majmudar JJ)

25.09.1996

ORDER

1. This special leave petition arises from the order of the Division Bench of the Karnataka High Court dated 19-6-1996 in IA No. 3 in RFA No. 225 of 1984. The admitted position is that in the suit for specific performance the High Court has agreed with the suggestion of the respondent to pay a further sum of Rs 1,80,000. The High Court has extended three months' time from 21-4-1994 for deposit of the amount. Special leave petition filed in this Court was dismissed on 23-9-1994 and within three months thereafter on 17-1-1995 the amount came to be deposited. An application under Section 28 of the Specific Relief Act, 1963 was filed to rescind the decree on the ground that the respondent had committed default in compliance of the conditional decree of the deposit of the amount. The respondent had filed an application for extension of time. The application for rescission of the decree was dismissed and the application for extension of time was allowed. Thus this special leave petition.
2. It is contended by Mr Mahale, learned counsel for the petitioners, that after the expiry of the time prescribed by the court, the petitioner has a right to seek rescission of the decree for specific performance for non-compliance. The Court, therefore, has no power to enlarge the time. We find no force in the contention. Section 148 CPC gives power to the court to enlarge the time for complying with the orders of the court from time to time. Under those circumstances, the court has correctly exercised the discretion since the amount came to be deposited within three months from the date of dismissal of the application under Section 28.
3. The special leave petition is accordingly dismissed.