

Supreme Court of India

Yeshoda & Anr vs K. Nagarajan on 25 September, 1996

Bench: K. Ramaswamy, S.B.Majmudar

PETITIONER:

YESHODA & ANR

Vs.

RESPONDENT:

K. NAGARAJAN

DATE OF JUDGMENT: 25/09/1996

BENCH:

K. RAMASWAMY, S.B.MAJMUDAR

ACT:

HEADNOTE:

JUDGMENT:

O R D E R This Special Leave Petition arises from the order of the Division Bench of the Karnataka High Court dated June 19, 1996 in I.A. No.3 in RFA No.225/84. 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 April 21, 1994 for deposit of the amount. Special Leave Petition filed in this Court was dismissed on September 23, 1994 and within three months thereafter on January 17, 1995 the amount came to be deposited, An application under Section 28 of the Specific Relief Act 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 It is contended by Mr. Mahale, learned counsel for the petitioner, 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 special leave petition.

The special leave petition is accordingly dismissed.