



**IN THE HIGH COURT OF BOMBAY AT GOA
CIVIL REVISION APPLICATION NO.256 OF 2026 (F)**

ALLIED SALES AGENCY REP BY ITS PROPRIETOR RAJEEV
MURAKA
VERSUS
CG PPI ADHESIVE PRODUCTS LIMITED REP BY ITS DULY
CONSTITUTED ATTORNEY

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Mr. Rishi Murarka with Mr. Siddharth Nunes, Advocates for Applicant.
Mr. R. G. Ramani, Senior Advocate with Mr. Pranav Kakodkar,
Advocates for Respondent.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 08th SEPTEMBER, 2026.**

FINAL ORDER:-

1. The applicant impugns order dated 25.11.2025 passed by Civil Judge Senior Division at Ponda, Goa in Civil Miscellaneous Application No.16/2024/A to the extent of condition imposed while setting aside *ex-parte* decree dated 21.12.2023 passed in Special Civil Suit No.22/2006/A.

2. The respondent instituted Special Civil Suit No.22/2006/A seeking decree for recovery of amount of Rs.10,11,929.50/-. The suit proceeded *ex-parte* against applicant and judgment and decree dated 22.06.2007 was passed against him. This Court in Writ Petition No.247/2009 set aside *ex-parte* decree observing that applicant was not duly served with suit summons, however, on condition that applicant deposits half of claimed amount i.e. Rs.5,34,125/- within period of six weeks.

3. The applicant filed written statement, issues were framed and recording of plaintiff's evidence was in progress w.e.f. 05.05.2011. The applicant cross-examined Plaintiff Witness No.1. While plaintiff's evidence was in progress, hearing of suit was fixed on 13.06.2013. The applicant's Advocate failed to appear for cross-examination of plaintiff witness. Eventually, no-cross order was passed on 01.10.2013 and finally *ex-parte* decree came to be passed on 21.12.2013. The applicant filed application for setting aside *ex-parte* decree alongwith application to condone delay. On 15.01.2024, Trial Court condoned delay. Eventually, Civil Miscellaneous Application No.16/2024/A was registered for setting aside *ex-parte* decree. The Trial Court allowed application in following terms:

- (i) *The Applicant herein (Defendant in the Civil Suit) is directed to deposit before the Nazir of this Court the entire decretal amount with all interest accrued upto today - which was ordered to be paid vide Judgment and Decree dated 21.12.2013. While depositing the said entire decretal amount, the Applicant herein (Defendant in the Civil Suit) shall deduct / minus the amount already deposited before this Court in terms of Order dated 22.07.2009, passed by Hon'ble High Court of Bombay at Goa.*
- (ii) *The deposits are to be made as per the calculations specifically approved by the Nazir of the Court. The Nazir is directed to verify the calculations presented by the Applicant herein (Defendant in the Civil Suit) thoroughly and if approved, the Nazir shall record a specific observation that he checked the calculations and found it to be correct. If the calculations presented by the Applicant herein (Defendant in the Civil Suit) is not found to be incorrect, the Nazir to make his calculation and the Applicant herein (Defendant in*

the Civil Suit) shall make the payment as per the calculation of the Nazir. The said money is to be deposited before this Court within three weeks from today.

- (iii) Upon such deposit being effected within the stipulated time period, the Nazir to invest the entire deposited amount in a Nationalized Bank initially for a period of one year and such investment shall be renewed for such like terms from time to time upto further Orders of this Court, in the Civil Suit.*
- (iv) Considering that the Applicant herein (Defendant in the Civil Suit) stopped appearing since 13.06.2013, the Applicant herein (Defendant in the Civil Suit) is also directed to deposit costs of Rs.50,000/- per calendar year as token litigation costs and token costs for other miscellaneous expenses incurred by the Respondent herein (Plaintiff in the Civil Suit). Such costs shall be deposited directly with the Respondent herein (Plaintiff in the Civil Suit) under written intimation to this Court, in this Civil Miscellaneous Application. The entire amount is to be deposited before this Court within three weeks from today.*
- (v) The Applicant herein (Defendant in the Civil Suit) to strictly adhere to the timelines fixed by this Court and it is made clear that the Court expects complete diligence on the part of the Applicant herein (Defendant in the Civil Suit) and the Court makes it crystal clear that no extension of time shall be granted.*
- (vi) The Applicant herein (Defendant in the Civil Suit) to give a written Undertaking to the Court that they shall keep their Advocate present and instructed on each date of hearing and shall also specifically undertake to ensure that the party or their Advocate does not seek even a single adjournment in the matter. They shall specifically undertake that if their Advocate is under any difficulty whatsoever, they shall keep an alternate Advocate present, prepared and duly instructed to go ahead with the matter. Such undertaking is required because the Court is conscious of the fact that when the*

Civil Suit is restored, it shall be treated as a 19 years old Action Plan Matter monitored by the Hon'ble High Court.

- (vii) Only in the event the two payments are made in full within the stipulated period of three weeks from today, the Judgment and Decree dated 21.12.2013 shall be quashed and set aside and the Special Civil Suit no. 22/2006/A shall stand restored to the file of this Court and the hands of the clock shall be set back to the stage of trial, where the Applicant herein (Defendant in the Civil Suit) will be given a chance to cross examine PW1.*
- (viii) It is also made clear that if the Applicant herein (Defendant in the Civil Suit) does not deposit the two amounts, in full, within the stipulated period of three weeks, this Order shall be without any effect and the Respondent herein (Plaintiff in the Civil Suit) shall proceed to prosecute Execution Application no. 16/2019, which is kept alive for the moment – and which shall be disposed of only in the event the Applicant herein (Defendant in the Civil Suit) complies with this Order, in full, within the stipulated time limit.*
- (ix) Civil Miscellaneous Application disposed of accordingly, but kept for compliance of directions passed herein. Place this disposed Civil Miscellaneous Application on 18.12.2025, at 10.00 am to monitor compliance.*
- (x) Execution Application no. 16/2019 is on board today. In view of this Order, matter is adjourned simplicitor. Put up Execution Application no. 16/2019 on Board on 18.12.2025, at 10.00 am, for Directions - if there is full compliance on the part of the Applicant herein.*

4. The applicant is aggrieved by conditions imposed by Trial Court being harsh and unreasonable.

5. Mr. Rishi Murarka, learned Advocate appearing for applicant submits that respondent instituted suit with principle claim for

Rs.10,11,929.50/- and sought recovery of unpaid price of goods and damages. The applicant has already deposited sum of Rs.5,34,125/- while complying condition imposed by this Court while setting aside first *ex-parte* decree. Second time although decree has been set aside, condition to deposit decretal amount alongwith interest with further cost of Rs.50,000/- per calendar year has been imposed, which is harsh and unreasonable. He would, therefore, urge to quash and set aside condition of deposit of decretal amount alongwith interest and further cost of Rs.50,000/- per calendar year as token of litigation cost allegedly incurred by plaintiff.

6. Per contra, Mr. R. G. Ramani, learned Senior Advocate appearing for respondent would invite attention of this Court to conduct of applicant. He points out that suit is instituted in year 2006. Previously, *ex-parte* decree was passed, which was set aside in year 2009. The plaintiff recorded his evidence during period from 2011 to 2013. The applicant partially cross-examined respondent/plaintiff and thereafter failed to participate in proceeding. Even thereafter he was not diligent in prosecuting application for setting aside *ex-parte* decree or application seeking condonation of delay caused in filing application for setting aside *ex-parte* decree.

7. Having considered submissions advanced by learned Advocates appearing for respective parties and after perusal of impugned

conditions incorporated in impugned order, it can be observed that basically suit has been instituted for recovery of amount of Rs.10,11,929.50/-, 50% of which has been deposited by applicant in year 2009 and said amount is reportedly withdrawn by respondent/plaintiff. Thereafter, *ex-parte* decree is passed alongwith interest @ 21% per annum. Apparently, Trial Court was convinced with reasons in support of setting aside *ex-parte* decree. Eventually, allowed applicant's prayer for setting aside *ex-parte* decree, however, by putting condition of deposit of entire decretal amount with interest and litigation cost of Rs.50,000/- per annum from 2013 onward, which counts to be more than Rs.6,50,000/- as of today.

8. In case of ***Lachi Tewari Vs. Director of Land Records***¹, Supreme Court observed that “*once applicant has taken care to engage Advocate, his personal attendance and consequential failure of Advocate to take necessary steps in matter cannot be penalized.*” Similarly, in case of ***V. K. Industries and Others Vs. M. P. Electricity Board, Rampur, Jabalpur***², it has been observed that “*although ex-parte decree was passed against appellant, once it is set aside on ground of non-service of suit summons money decree did not exist for execution. It is no doubt true that in restoring case the Court may impose conditions to deposit costs or the decretal amount or some portion thereof or to ask*

¹ 1984 Supp. SCC 431.

² (2002) 3 SCC 159.

defendant to give security but such conditions should be reasonable and not harshly excessive.”

9. Keeping in mind aforesaid principles of law, this Court finds that having convinced with reasons for setting aside *ex-parte* decree, Trial Court could not have imposed onerous, harsh and unreasonable conditions, which does not serve interest of justice. Apparently, conditions are in the nature of penalty or punishment. In that view of matter, this Court finds that equities can be balanced by modifying conditions incorporated in impugned order. Hence, following order:

ORDER

- a. Civil Revision Application is partly allowed.
- b. The order of Trial Court dated 25.11.2025, to the extent of setting aside *ex-parte* decree in Special Civil Suit No.22/2006/A is maintained with modification that applicant shall deposit with Trial Court balance of principle decretal amount as per *ex-parte* decree in addition to cost of Rs.20,000/- to be paid to plaintiff, within period of four weeks from today. Rest of conditions in order impugned are quashed and set aside.
- c. Once applicant complies aforesaid condition, Trial Court shall proceed with suit giving opportunity to applicant to cross-examine plaintiff's witness(s) and lead his evidence.

d. The applicant shall file written undertaking to ensure presence of his Advocate on all dates and avoid adjournments. Non-compliance of aforesaid condition shall entail restoration of *ex-parte* decree dated 21.10.2013.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/August-2026