

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 2923 OF 2015

Gangamai Industries and Construction Ltd.,
Registered Office at 2nd Floor, Tapadia Tarraces,
Adalat Road, Aurangabad
Through it's Authorized Signatory,
Suresh s/o Murlidhar Hiwarde,
Age: 40 years, Occ: Service,
R/o. Harinagar, Najik Babhulgaon,
Post Rakshi, Tq. Shevgaon,
District Ahmednagar.

...Applicant

versus

Dharamsing s/o Harsing Rajput
Age: 45 years, Occ: Mukadam,
R/o. Bambrud Khurd, Tq. Pachora,
Dist. Jalgaon.

...Respondent

.....
Mr. P.B. Salunke, Advocate h/f Mr. S.B. Kakde, Advocate for
applicant
Mr. D.B. Thoke, Advocate for respondent
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CORAM : N.W. SAMBRE, J.

DATE : 9th MARCH, 2016

ORAL ORDER :

The order dated 16/10/2014 passed by 2nd Judicial Magistrate, First Class, Aurangabad in Summary Case No. 6316 of 2014 passed below Exhibit-1 is impugned herein. Since the present applicant has not complied with earlier order passed below Exhibit-1, the matter was dismissed.

2. Learned Counsel for the applicant would urge that the cause of dismissal is default on the part of Lawyer and as such for the same, the applicant cannot be made to suffer. He would then submit that he will be diligent in attending and prosecuting further proceedings in the matter.

3. Learned Counsel for the respondent opposed the prayer on the ground that the Magistrate has time and again accommodate the present applicant for compliance of the order passed below Exhibit-1.

4. Having perused the *roznama* and order impugned, it is required to be noted that in the interest of justice, the applicant can be granted chance to continue with the proceedings by complying with the order passed by the Magistrate below Exhibit-1 subject to payment of costs of Rs.2500/- (Rs. Two thousand five hundred only) to be deposited in the Court of Judicial Magistrate, First Class, Aurangabad in Summary Criminal Case No. 6316 of 2014 within two weeks from today. The order impugned is set aside. Learned Magistrate, upon deposit of the costs, may permit present applicant to proceed further with the complaint.

5. Parties agree that they shall appear before learned

Magistrate on 28/03/2016.

6. The application stands allowed in above terms.

[N.W. SAMBRE, J.]

Tupe/09.03.16