

A SAS

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5187 OF 2019

Bhavya Infomac

..Petitioner.

V/s.

Boss Infosolution Pvt. Ltd.

..Respondent.

Mr.Anant Upadhyay I/b. Manoj Shukla for the petitioner.

None for the respondent.

CORAM : M.S.SONAK, J.

DATE : APRIL 26, 2019

P.C.:-

Learned counsel for the petitioner states that the entire decretal amount has already been deposited by the petitioner before the trial Court. The statement is accepted. Learned trial Court / Executing Court is directed not to disburse this amount to the respondent for a period of eight weeks from today.

2. The order impugned in this petition in dismissing the petitioner notice of motion for condonation of delay and setting aside the ex-parte decree dated September 22, 2017. Since the delay has not been condoned, this is the same as dismissal of the notice of motion seeking setting aside the ex-parte decree. The said order is appealable.

3. Accordingly, learned counsel for the petitioner seeks leave

to withdraw the petition with liberty to file appeal against the impugned order and seeking interim relief therein.

4. Leave is granted as prayed for. In order that the amount which is deposited by the petitioner is not disbursed in the meanwhile, the aforesaid directions for non disbursal for a period of eight weeks is issued.

5. If within the period of eight weeks from today, the petitioner does not secure any interim relief in the appeal, which he proposes to institute, the Executing Court shall be at liberty to disburse the deposited amount in favour of the decree holders.

6. With the aforesaid and liberty this petition is disposed of. There shall be no order as to costs.

7. All concerned to act on the basis of an authenticated copy of this order.

(M.S.SONAK, J.)