

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.48/2019

M/s. Micro International Pvt. Ltd. ... Petitioner

V/s.

M/s. Spiral Tools Pvt. Ltd. ... Respondent

Mr. Gandhar U. Raikar for the Petitioner

Mr. Hassnanin Kazi Sayyed for the Respondent

CORAM: K.K. TATED, J.

DATED : JANUARY 23, 2019

P.C. :

1 Heard. After arguing for some time, both the parties filed consent minutes of order dated 23.01.2019. Same are duly signed by the respective Advocates. Same are taken on record and marked "X" for identification.

2 The consent minutes of order read thus:

MINUTES OF ORDER

Coram: KK Tated

Date: 23.1.19

1. *The above Writ Petition was filed challenging the Impugned Order dated 21.9.18 rejecting the Application for condonation of delay in filing Appeal passed by Addl. District Court at Pune. The Petitioner, Original Defendant in the Suit is also challenging the Judgment and Decree dated 4.10.2013 passed by the 3rd Jt. Civil Judge Jr Division at Pune directing the*

Petitioner to pay the principal amount of Rs. 2,81,294/- (Rupees Two Lakhs Eighty One Thousand Two Hundred and Ninety Four Only) along with interest of Rs. 2,67,725/- (Rupees Two Lakhs Sixty Seven Thousand Seven Hundred and Twenty Five Only) totaling to Rs. 5,49,019/- (Rupees Five Lakhs Forty Nine Thousand and Nineteen Only) upto the date of decree.

2. *The Respondent has now computed the interest on the principle amount @ 10% pa. and the entire decretal is Rs. 6,12,688/- (Rupees Six Lakhs Twelve Thousand Six Hundred and Eighty Eight Only) accrued upto January 16, 2019. The Petitioner is ready and willing to deposit this amount within a period of Six weeks in registry of Hon'ble District Court at Pune.*
3. *The Petitioner and Respondent hereby consents to set aside the order dated 21.09.2018 rejecting the Application for condonation of delay of Petitioner in filing the Appeal and delay of 4 years and 9 months in filing the said Appeal shall hereby stand condoned on deposit of afore-stated decretal amount in Hon'ble District Court at Pune. Appeal No. 984 of 2018 is accordingly resored to file and to be decided by the Appellate Court at Pune on its own merits with all contentions of parties kept open. Appeal shall be listed for hearing before the Court at Pune on March 13, 2019. The Respondent is objecting to lead defense evidence as mentioned in the paragraph number 5 & 7 of the Misc. Civil Application No. 984/2018 filed for delay condonation for filing an Appeal before the Dist. Court.*
4. *After deposit of the above amounts, the Respondent shall be allowed to withdraw 50% of the amount being 3,06,344/ (Rupees Three Lakh Six Thousand Three Hundred and Forty Four Only) after submitting an express Affidavit sum undertaking oath to be filed in Hon'ble District Cour at Pune stating that the Respondent shall bring back the said amount of 3,06,344/ (Rupees Three Lakh Six Thousand Three Hundred and Forty Four Only) with interest computed at 10% pa if the Distict Court passes the order setting aside the Judgment and Decree dated 4.10.2013 passed by the Hon'ble 3rd Addl. Civil Judge at Pune. The Registrar of District Court at Pune shall invest balance 50% of the amount i.e. 3,06,344/*

(Rupees Three Lakh Six Thousand Three Hundred and Forty Four Only) in Fixed Deposit fetching highest interest rates.

5. *The parties hereby agree that the Execution Application No. 1/2018/C before the Court of Civil Judge Junior Division at Panaji - Tiswadi, Goa will kept in abeyance till outcome of the Appeal. In the event the Judgment and Decree dated 4.10.2013 is set aside after hearing Appeal No. 984 of 2018, the Respondent shall unconditionally withdraw the execution application within a period of 2 weeks thereafter. If the Petitioner fails to deposit the decreetal amount of Rs. 6,12,688/- (Rupees Six Lakhs Twelve Thousand Six Hundred and Eighty Eight Only) within 6 weeks time as aforesaid, the Execution proceedings will proceed in accordance with law.*

Dated 23rd day of January, 2019

Advocate for Petitioner

Advocate for Respondent"

3 The Writ Petition stands disposed of in terms of the consent minutes of order.

(K. K. TATED, J.)