

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1866 OF 2020

HLM INDIA PVT LTD THROUGH AUTHORIZED OFFICER
VERSUS
GALCO EXTRUSION PVT LTD

Mr.D.R.Jethliya, Advocate for the petitioner.
Mr.A.P.Bhandari, Advocate for the respondent.

(CORAM : Ravindra V.Ghuge, J.)
DATE : 09/03/2020

PER COURT :

1. Heard the learned Advocates for the respective sides at length.
2. Special Civil Suit No.95/2015 was filed by the respondent in April 2015. Steps were taken to have summons issued in the suit in 2019 and the Trial Court issued summons on 17/06/2019. The petitioner appeared in the suit on 29/06/2019 and was supplied with accompanying documents on 09/07/2019. 'No Written Statement' order was passed on 09/08/2019. Application Exh.41 was filed by the petitioner on 16/10/2019 alongwith the written statement. The Trial Court has rejected Exhibit 41 vide the impugned order dated 07/12/2019 for the reason that it was not accompanied by an affidavit and no proof that the authorized

signatory was unwell between July to September, was produced.

3. The learned Advocate Mr.Bhandari has strenuously opposed this petition and submits that the petitioner/defendant is a sleeping litigant and the Law will not assist such litigants. Exhibit 41 was filed after 2 months of the 'No Written Statement' order, which indicates that the petitioner is not interested in the litigation.

4. I find that the respondent has preferred the suit in April 2015 and steps have been taken for issuance of summons to the defendant, only in June 2019. Recovery of Rs.68,61,836/- as on 01/04/2013 is claimed. By keeping the suit pending for 4 years, the interest component would have increased. The petitioner/defendant received the documents on 09/07/2019 and within 30 days, the Trial Court has passed the 'No Written Statement' order. The delay does not appear to be deliberate or inordinate. Laches are not attributable to the conduct of the petitioner.

5. In view of the above, this petition is allowed by directing the petitioner to deposit Rs.10,000/- as costs in this Court. The impugned order dated 07/12/2019 is quashed and set aside and application Exh.41 stands allowed.

6. The learned Advocate for the plaintiff submits on instructions that the amount of Rs.10,000/- may be donated for a public cause.

7. As such, the petitioner shall deposit the said amount with the Government Medical College and Hospital, Aurangabad, **through Medical Officer, High Court Dispensary, Aurangabad**, either in cash or by Demand Draft (Demand Draft be drawn in the name of **“Dean, Government Medical College and Hospital, Aurangabad Dengi Samiti”**) on or before 30/03/2020.

(Ravindra V.Ghuge, J.)