

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1181 OF 2020**

M/s. Anagram System,
through its Proprietor
Amba Charan

...Petitioner

Versus

M/s. Uttam Galva Steels Limited

...Respondent

Mr. S. H. Patel for the Petitioner

Mr. Vishal Kanade a/w Ms. Vaishali Bhikule i/b Mr. Manmohan Rao for the
Respondent

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 4th MARCH 2020

P.C. :

1 Heard learned counsel for the parties.

2 By this petition, the petitioner has impugned the order dated 29th November 2019 passed by the learned Civil Judge, City Civil Court, Greater Mumbai in Notice of Motion No. 1613/2016 in Summary Suit No. 4781/2010, by which the learned Judge was pleased to grant the petitioner/defendant leave to defend the suit, on the condition that the petitioner deposits the principal amount of Rs. 19,59,546.69 in the trial Court within two months from the date of the order, failing which, the respondent/plaintiff would be entitled for a decree.

3 Learned counsel for the petitioner submits that the petitioner is not in a position to deposit the principal amount but is ready to give a bank guarantee for the principal amount. He, therefore, prays that the petitioner be permitted to give a bank guarantee of Rs. 19,59,549.69, instead of depositing the said amount.

4 Learned counsel for the respondent opposes the petition. He submits that in the event, bank guarantee is being furnished, the amount should be be higher i.e. at least Rs. 25 lakhs. Learned counsel for the respondent fairly states that the respondent has no objection if bank guarantee of Rs. 25 lakhs is given.

5 Learned counsel for the petitioner has tendered an undertaking of the petitioner. The said undertaking is taken on record and marked 'X' for identification. In the said undertaking, the petitioner has undertaken to furnish bank guarantee of Rs. 25 lakhs within six weeks or such other time as directed by this Court. The petitioner has also undertaken to this Court that the said bank guarantee would be renewed every year, without any default and that in the event there is a default by the petitioner, the decree as

prayed for in the suit may be passed in favour of the respondent/plaintiff. A xerox copy of the undertaking filed by the petitioner in this Court also to be placed on record by the petitioner in the trial Court.

6 Having regard to the undertaking given by the petitioner to furnish bank guarantee of Rs. 25 lakhs, which is more than the amount directed by the trial Court, the impugned order dated 29th November 2019 stands modified. The petitioner is granted leave to defend the suit, on furnishing bank guarantee of Rs. 25 lakhs within six weeks from today instead of depositing the principal sum of Rs. 19,59,546.69. The said bank guarantee to be renewed every year by the petitioner, failing which, the decree as prayed for by the respondent/plaintiff may be passed by the trial Court. The bank guarantee to be drawn in the name of the Registrar (Civil), City Civil Court, Mumbai.

7 As soon as the bank guarantee is furnished, the suit shall be transferred to the list of Commercial Causes and the petitioner shall be entitled to file his written statement within 30 days of furnishing of bank guarantee.

8 It is made clear that the petitioner is permitted to furnish bank guarantee of Rs. 25 lakhs within six weeks from today and that no extension would be granted, in any event.

9 Petition is disposed of on the aforesaid terms.

10 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.