

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**WRIT PETITION NO.1583 OF 2020**

Piyush N. Mehta & Ors. .. Petitioners  
Versus  
Madhukar Ramji Raut & Ors. .. Respondents

...

Mr.Rohan Surve i/b Mr.Dipak Churi with Mr.Madhukar Yelutla  
for the Petitioners.

Mr.Nishigandh N. Patil for the Respondent Nos.1 to 3.

...

**CORAM: BHARATI DANGRE, J.**  
**DATED : 01<sup>st</sup> DECEMBER, 2021**

**P.C:-**

1. By the present petition, the petitioner who is a defendant in a Summary Suit instituted for decree of Rs.15,00,000/-, assailed the order passed by the City Civil Court, Gr.Bombay on 02/08/2019. Under the impugned order, the application of the plaintiff for issuance of summons for judgment is rejected and the defendant is held entitled for leave to defend, subject to the condition of deposit of Rs.15,00,000/- within a period of four weeks from the date of the order. On deposit of the amount, the suit was directed to be converted from Summary Suit to Short Cause Suit.

2. This order is the subject matter of the present petition, which is pending before this Court since 2020 with a position

that the petitioner has not complied with the said order and has failed to deposit the amount of Rs.15,00,000/-, which was directed to be deposited as a prerequisite for his right to defend the suit, being kept intact. The petition is kept pending and was never listed before this Court owing to the pandemic.

3. It is informed that the suit is scheduled for passing orders on the evidence of the plaintiff being over. The difficulty expressed by the petitioner in not depositing the amount, as directed by the trial court, is the financial restraints faced by him particularly, on spread of Covid pandemic when the entire business activities came to standstill and also on account of the fact that he underwent a heart surgery, which further worsen his physical and financial condition.

4. Learned counsel for the petitioner prays that the Court should take a sympathetic view of his situation and if the amount is reduced, he is ready to deposit 50% of the amount, subject to which he is granted leave to defend the suit as an amount of Rs.15,00,000/- is merely impossible for him to deposit.

5. Considering the aforesaid situation which is set out in the writ petition filed by the petitioner, I deem it appropriate to have a sympathetic approach and I am convinced to reduce the amount to Rs.8,00,000/- instead of Rs.15,00,000/-, which shall be deposited in the Court within a period of four weeks from

today. It is made clear that leave to defend, which is already conferred on him under the impugned order, shall be subject to the deposit of this amount within a period of four weeks. Apart, for delaying the proceedings filed by the plaintiff, he shall also make over cost of Rs.25,000/- to the plaintiff within a period of four weeks from today. Subject to the aforesaid stipulations, the impugned order is partially modified and the leave to defend, which was granted to the petitioner shall be allowed subject to the deposit of Rs.8,00,000/-.

6. With the aforesaid direction, the writ petition is partly allowed.

**( SMT. BHARATI DANGRE, J.)**