

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.1757 OF 2022

1. Manohar Shankar Gulve,
Aged about 68 years,
Occu. - Business,
Proprietor of Kamlakar Krushi Seva Kendra.

2. Kamlakar Manohar Gulve,
Adult, Occu. - Business,

Both R/o Bazar Patti, Bharadi,
Tq. Sillod, Dist. Aurangabad.

..... **PETITIONERS**

...V E R S U S...

Basant Agro Tech (I) Ltd.,
A registered company Through its
Manager and Constituted Attorney
Shri Ashish Kamlakar Hote,
Aged about 40 years,
Occu. - Service, R/o Bhartia Bhavan,
Tajnapeth, Akola, Dist. Akola.

..... **RESPONDENT**

WRIT PETITION NO.1758 OF 2022

Dattatray Digambar Kothale,
Adult 58 years,
Occu. - Business,
Proprietor of Kothari Krishi Sevan Kendra,
R/o At Post Undangaon, Tq. Silod,
Dist. Aurangabad.

..... **PETITIONER**

...V E R S U S...

Basant Agro Tech (I) Ltd.,
a company registered under the provisions of

companies Act through its manager and
constituted attorney – Mr. Ashish Kamlakar Hote,
Aged about 40 years,
Occupation-service,
R/o Tajnapeth, Akola.

..... **RESPONDENT**

Mr. M. G. Sarda, Advocate for Petitioners [WP 1757/2022].
Mr. D. R. Khapre, Advocate for Respondent [WP 1757/2022].
Mr. M. G. Sarda, Advocate for Petitioner [WP 1758/2022].
Mr. D. R. Khapre, Advocate for Respondent [WP 1758/2022].

CORAM: **ROHIT B. DEO, J.**
DATE: **18th APRIL, 2022.**

ORAL JUDGMENT:

Both the petitions are directed against the order passed in Summary Suit whereby leave to defend is granted subject to certain conditions.

2. By now, it is common ground, that the application seeking the judgment summons was not supported by an affidavit as is statutorily mandatory.

3. In this view of the matter, the parties agree that the order impugned granting conditional leave can be set aside with liberty to the plaintiff in both the suits to apply afresh for judgment summons which shall be supported by affidavit. Upon such application being preferred, if the defendants so apply,

the aspect of leave to defend and/or the conditions shall be considered afresh, as early as possible and in any event within two weeks from the date of applying for leave to defend.

4. The petitions are disposed of.

5. All contentions, by the petitioners herein and in rebuttal, are kept expressly open.

JUDGE

NSN