

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 585 OF 2024

SANTOSH
SUBHASH
KULKARNI

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Date: 2025.02.26
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Parvez Abdul Kader Companwala

...Applicant

Versus

Sufiyan Mohammed Hanif Turk

...Respondent

WITH

INTERIM APPLICATION NO. 5 OF 2025

Ms. Sarita Dahiwide, for the Applicant.

Mr. Asif Shaikh, for the Respondent.

CORAM: N. J. JAMADAR, J.

DATED: 24th FEBRUARY, 2025

PC:-

1. Heard the learned Counsel for the parties.
2. The challenge in this petition is to an order dated 26th June, 2024 passed by the learned Judge City Civil Court, whereby leave to defend the suit has been granted subject to deposit of an amount of Rs.16,83,800/-.
3. From the perusal of the impugned order, it becomes evident that the learned Judge, City Civil Court was satisfied that defendant No.1 – petitioner has raised triable issues. However, the defendant could not file documents on record to show that he has repaid the entire amount. Thus, following the law laid down by the Supreme Court in the case of **B. L.**

Kashyap and Sons Ltd. vs JMS Steels and Power Corporation and Another (SLP (C) NO. 19413 OF 2018), the learned Judge was persuaded to grant the leave to defend the suit subject to deposit of Rs.16,83,800/-, being the principal amount.

4. As defendant No.1 has raised triable issues, the condition to be imposed by the Court while granting the leave to defend ought not be onerous. Thus, in the facts and circumstances of the case, I am inclined to modify the order of deposit as the Trial Court was satisfied that triable issues were raised by defendant No.1.

5. The petition, thus, stands allowed to the following extent.

6. Leave to defend is granted to defendant No.1 subject to the defendant No.1 depositing an amount of Rs.7,00,000/- before the Trial Court, within a period of one month from today.

7. Petition stands disposed.

8. In view of disposal of the petition, interim application also stands disposed.

[N. J. JAMADAR, J.]