

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 15419 OF 2025

Nirmal Bang Securities Pvt. Ltd. ...Petitioner

Versus

Darshan Pradeep Sharma ...Respondent

AND

WRIT PETITION NO. 15473 OF 2025

Nirmal Bang Commodities Pvt. Ltd. ...Petitioner

Versus

Pradeep Rameshwar Sharma ...Respondent

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Mr. S. D. Chandak, a/w K. S. Chandak, for the Petitioner in
both WP.

CORAM: N. J. JAMADAR, J.

DATED: 18th NOVEMBER, 2025

Order:-

1. Heard the learned Counsel for the petitioner.
2. These petitions under Article 227 of the Constitution of India take exception to an order dated 18th September, 2021 passed by the learned Judge, City Civil Court, Dindoshi, in Summons for Judgment No.99 of 2017 in Summary Suit No.482 of 2016 and Summons for Judgment No.98 of 2017 in Summary Suit No.481 of 2016, whereby the learned Judge, City Civil Court, was persuaded to grant leave to defend the suit to the respondent – defendant subject to condition of deposit of the

amount of Rs.1,85,096/- in Summary Suit No.482/2016 and Rs.3,07,581/- in Summary Suit No.481/2016, alongwith interest at the rate of 18% p.a.

3. The petitioner – plaintiff instituted Summary Suit No.482/2016 for recovery of a sum of Rs.1,85,096/- being the unpaid security deposit in connection with the Leave and Licence Agreement in respect of shop premises No.2 and Summary Suit No.481/2016 for recovery of a sum of Rs.3,07,581/- towards the unpaid security deposit of Rs.1,92,560/- alongwith interest at the rate of 18% p.a. in connection with the Leave and Licence Agreement in respect of the shop premises No.3 located at Shrinath Apartment.

4. By the impugned orders, the Summons for Judgment taken out by the plaintiff were rejected and leave to defend came to be granted to the respondent subject to deposit of entire amount claimed by the petitioner in each of the suits.

5. Mr. Chandak, the learned Counsel for the petitioner, submitted that, the learned Judge, City Civil Court, having found that the defendant had failed to raise any triable issue, much less a substantial defence, ought not to have granted leave to defend the suit. The defence of the defendant that the

plaintiff has caused damage to the licenced premises was sham and moonshine as it was not raised despite service of notice.

6. At the outset, it is necessary to note that, the impugned orders were passed by the learned Judge, City Civil Court, on 18th September, 2021. The instant petitions have been filed almost four years after the passing of the impugned order. In the intervening period, the respondent – defendant has already complied with the condition of deposit and filed the written statement. The Court is informed that, the learned Judge has settled the issues also. The trial has commenced. In view of the aforesaid developments, at this belated stage, this Court does not find any propriety in entertaining the petitions. On the count of delay and laches, the petitions deserve to be dismissed.

7. Even on the merits of the matter, the Court cannot lose sight of the fact that, the learned Judge directed the deposit of the entire claim amount, while granting leave to defend. It is trite only in exceptional cases, where the defendant fails to make out any probable defence, the Court would be justified in declining to grant the leave, and pass a decree. A useful reference, in this context, can be made to the decision of the

Supreme Court in the case of *B. L. Kashyap and Sons Ltd. vs. M/s. JMS Steels and Power Corporation and Another*¹.

8. In view of the aforesaid position in law and the fact that the leave was granted on the condition of deposit of the entire amount, at this belated stage, this Court does not find any reason to entertain the petitions even on merits.

9. The petitions, thus, stand dismissed.

[N. J. JAMADAR, J.]

¹ (2022) 3 Supreme Court Cases 294.