



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

WRIT PETITION NO. 5227/2025

A. K. GANDHI ELECTRONICS AND APPLIANCES LL, NAGPUR AND OTHERS

VERSUS

M/S. SUKESH ASSOCIATES, MAHALGAON, KAMPTEE, THR. PARTNER, MR. DHARMESH
MUKUND VED

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri Nikhil D. Dawda, counsel for the petitioner.
Shri Haris A. Khan, counsel for the respondent.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : SEPTEMBER 12, 2025

1. Learned counsel for the petitioner seeks leave to amend prayer clause 1 to clarify the extent of challenge to the impugned order.
2. Leave granted. Necessary amendment be carried out forthwith.
3. The challenge in the petition is to the order passed by the trial Court granting conditional leave to defend to the petitioner/defendant on depositing the entire amount of Rs. 7,50,000/-. Learned Counsel for petitioner submits that the trial court has observed in paragraph no. 6 of the impugned order that there is a triable issue between the parties which can be decided on full-fledged trial on the basis of evidence adduced by the parties and the defendant have substantial defense. It is submitted that despite this observation the trial Court has granted conditional leave. He submits that the impugned order is contrary to the settled legal

position and in support of his submissions he has placed reliance on judgment in the matter of *B.L Kashyap and Sons Limited Vs. JMS Steels And Power Corporation and Another*, reported at **(2022) 3 SCC 294**.

4. Advocate Shri Haris Khan, learned counsel for respondent appears on caveat and submits his affidavit-in-reply which is taken on record. Learned counsel for respondent submits that the petitioner / defendant has failed to challenge the impugned order within the period of one month during which the amount was directed to be deposited. He also submits that the petitioner had submitted a separate application before the trial Court on 24.07.2025 expressing readiness to comply with the impugned order. He also submit that on expiry of the period granted by the trial court for deposit of the amount the petitioner is not even entitled for seeking any extension.

5. Having regard to the controversy involved and particularly considering the observations of the trial Court in the light of the position of law, the matter needs to be considered for final disposal.

6. Put up the matter on 30th September 2025 for final disposal.

7. In the meantime the proceedings of the Summary Civil Suit No. 466 of 2022 shall remain stayed.

(PRAFULLA S. KHUBALKAR, J.)