

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7473 OF 2025

M/s Influx Agrotech Pvt. Ltd., And Others

VERSUS

Krishna Agri Science Thr Its Director

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Advocate for the Petitioners : Mr. Tandale Swaraj Suresh

AGP for Respondent/State : Mr. S.D. Ghayal

Advocate for Respondent No.1 : Mr. Vinod Prakash Patil

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : JANUARY 22, 2026

PER COURT :-

1. Present petition takes exception to order dated 04.01.2025 passed by Joint Civil Judge Senior Division, Dhule in Civil M.A. No.1436 of 2024, whereby an exparte decree passed in Special Civil Suit No.84 of 2015 has been set aside on condition to deposit 50% of decretal amount.

2. The respondent instituted Special Civil Suit No.84 of 2015 for recovery of Rs.9,68,200/- from petitioners. The petitioners appeared in suit through an advocate, however, failed to file written statement. Ultimately, suit came to be decreed for amount claimed along with interest @ 6% p.a. The petitioners filed an application for setting aside exparte decree invoking provisions under Order IX Rule 13 of Civil Procedure Code along with application for delay condonation. The Trial Court condoned delay and thereafter, decided application for setting aside decree after considering merits of matter and finally allowed the application, however, with condition that

petitioners shall deposit 50% of decretal amount within a period of one month.

3. Learned advocate appearing for petitioners would submit that condition imposed for restoration of suit is harsh. Although for setting aside *exparte* decree, the Court can impose cost or issue directions to deposit the amount. The direction to deposit 50% of decretal amount cannot be countenanced.

4. Per contra, learned advocate appearing for respondent/original plaintiff supports impugned order. He would submit that petitioner is a commercial entity. Although, they appeared in suit, failed to file written statement and suffered *exparte* decree. Even application for setting aside decree was belatedly filed. As such, petitioners are interested in prolonging litigation and taking advantage of Court procedure.

5. Having considered submissions advanced, it can be observed that Civil Court can set aside *exparte* decree under Order IX Rule 13 of Civil Procedure Code. Rule 13 stipulates that order setting aside a decree can be passed upon such terms as to costs, payment in Court or otherwise as found fit by the Court.

6. In present case, Trial Court framed points for consideration as to whether sufficient reasons are made depicting that petitioners were prevented from appearing in suit when it was called for hearing and said point is decided in affirmative. In this

background, the Trial Court allowed the application, however, imposed condition of depositing of 50% of amount as per decree. Apparently, such directions cannot be countenanced. The Court would have imposed cost for setting aside exparte decree instead of directing deposit of 50% of decretal amount. Such an order would amount to denial of relief as provided under Rule 13.

7. In this background, this Court finds that interest of justice would be served, if petitioners deposits/pays reasonable cost instead of depositing 50% of decretal amount as directed by Trial Court. Hence, the following order :

ORDER

- (i) Writ Petition is partly allowed.
- (ii) The direction to the extent of depositing of 50% amount of Rs.9,68,200/- within one month as a pre-condition for setting aside exparte decree is quashed and set aside.
- (iii) Instead, petitioners shall pay/deposit cost of Rs.50,000/-. The cost shall be deposited within a period of one month from today. On depositing cost, it may be disbursed to respondent/plaintiff.
- (iv) In facts of case, it is expected that the Trial Court would endeavour to decide the suit as expeditiously as possible and preferably within a period of six months from today.
- (v) Parties to co-operate, by desisting from seeking unwarranted adjournment.

(S.G. CHAPALGAONKAR, J.)