



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

**APPLICATION FOR LEAVE TO APPEAL BY PVT. PARTY NO.47 OF 2025**

Nilesh S/o. Shivdassing Pawar,  
Aged : 50 years, Occu. : Agri.,  
R/o. House No. N-9-L74/4,  
Shivaji Nagar, N-9, CIDCO,  
Aurangabad

... Applicant

Versus

Ved Enterprises and Agencies,  
Through its Authorized Signatory  
Mr. Bharat Pardeshi,  
Age : Major, Occu. : Business,  
R/o. : Ground Floor, Chirkamal Apartment,  
Opp. New Vardhman School College,  
Motibag Naka Road, Malegaon,  
Dist. Nashik (MH).

... Respondent

.....  
Mr. Yash V. Kasliwal, Advocate for Applicant.  
Mr. Abhijit S. More, Advocate for Respondent.

.....

**CORAM : ABHAY S. WAGHWASE, J.**  
**RESERVED ON : 23 MARCH 2026**  
**PRONOUNCED ON : 25 MARCH 2026**

**ORDER :**

. Present application is for leave to file appeal against order passed by learned Judicial Magistrate First Class, Khultabad, Dist. Aurangabad, dated 15.01.2025 in S.C.C. No.17 of 2022 dismissing the complaint for want of prosecution by invoking section 256 of the Code of Criminal Procedure.

2. Learned counsel for applicant pointed out that, complaint bearing S.C.C. No. 17 of 2022 was instituted for commission of offence punishable under section 138 of Negotiable Instruments Act. That, by order dated 18.02.2022, the learned J.M.F.C., after perusal of the complaint and documents on record, was pleased to issue process against the respondent.

3. Learned counsel for applicant further submitted that, applicant is an agriculturist by profession, and therefore, has a very workload and which renders him unable to attend court on each and every date. The learned Advocate for the applicant has taken effective steps to secure the presence of respondent and after service of summons to respondent, the learned trial Court has issued bailable warrant against him. However, on 01.11.2023, the respondent appeared through his Advocate and paid Rs.2,00,000/- to applicant out of total amount of Rs.4,80,000/- and filed a pursis stating that remaining amount would be paid within six months. The applicant was under the impression that the respondent would settle the matter within six months. The applicant made several attempts to contact the respondent, but there was no response. Consequently, the learned Advocate for the applicant did not attend the matter, being under the impression that compromise discussions were going on between the parties. It is submitted that

there was a miscommunication between the applicant and his Advocate, which resulted in the matter remaining unattended on certain dates. On 15.01.2025, the learned trial Court dismissed the complaint for want of prosecution. Therefore, in the interest of justice, he prays to set aside the impugned order by restoring the complaint back on the file of learned J.M.F.C.

4. In answer to above, learned counsel for respondent pointed out that, the complainant failed not merely once but on several occasions to diligently prosecute the matter. He further submitted that, in view of the prolonged and continuous absence of the complainant, the learned Trial Judge was justified in dismissing the complaint for want of prosecution. Consequently, it is prayed that, the leave application be rejected.

5. After hearing the submissions of both sides and on going through the papers, it seems that, present applicant had instituted proceedings bearing S.C.C No. 17 of 2022 on 04.01.2022. Record shows that matter was adjourned from time to time and both parties were absent on several occasions. Due to the ongoing compromise discussions and the applicant was under impression that settlement is going on, the learned Advocate did not attend the matter on certain dates. It is submitted that there was a miscommunication between the applicant and his Advocate, which

led to the matter being unattended. Finally by order dated 15.01.2025 impugned order has been passed.

6. Therefore, to secure the ends of justice and in view of oral undertaking of learned counsel to henceforth diligently prosecute the matter before the trial court, the application for leave to appeal deserves to be granted. Hence, I proceed to pass the following order :-

**ORDER**

- (i) Application stands allowed.
- (ii) Leave is granted to file Appeal.
- (iii) Registry to register the Appeal.
- (iv) List the appeal for further consideration on 07.04.2026.

**(ABHAY S. WAGHWASE, J.)**