

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.289 OF 2026

Jeksani Krishna Murthy and Son's Through its
Partner Jeksani Krishna Murthy & Anr.

...Petitioners

Versus

Ghodawat Skystar LLP (Rice Division) Through
its Authorized Person Rahul Narayan Pitre

...Respondent

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*Adv. Ramdas Shelke a/w Adv. Nikhil Dharmadhikari, for Petitioner.
Adv. Nikhil Warange a/w Adv. Kaushabh N. Kamat, Adv. Swati J. Goud,
Adv. Ibrahim Attar and Adv. Ashwin Aundhkar i/b Lesec Advisors LLP,
for Respondent.*

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CORAM : SHAILESH P. BRAHME, J.

DATE : 15th JUNE, 2026.

P.C. :

The Writ Petition No.289 of 2026 is taken up for final disposal with the consent of the parties.

2. An onerous condition of depositing Rs.8,00,000/- while granting leave to defend summary suit is questioned by the petitioners/original defendants. The respondent has preferred Summary Civil Suit No.52 of 2021 for recovery of amount of Rs.10,88,569/- along with interest.

3. The imposition of the condition is contended to be without jurisdiction. It is submitted that neither the claim or any part of the

claim is admitted nor the liabilities are accepted by the petitioners. The probable defense disclosed in application Exhibit-9 is not appreciated in the correct perspective. It is contended that the respondent/plaintiff is liable to pay an amount of Rs.4,09,347/- with interest, which needs to be adjusted. The quantum fixed by the impugned order for defending the suit is exorbitant and unreasonable.

4. Per contra, it is submitted that impugned order is in accordance with Order XXXVII Rule 3(5) of the Code of Civil Procedure (CPC). It is submitted that no documents were filed along with the application Exhibit-9 to make out any defense.

5. The learned counsel for the petitioners would submit, in rejoinder, that the Trial Court overlooked the defense enumerated in Paragraph Nos.6, 8, 9, 10, 13 and committed perversity.

6. The respondent has claimed amount of Rs.10,88,569/- towards supply of goods to the petitioners from 16.06.2016 to 31.03.2017. It is specifically averred in Paragraph No.6 of the plaint that the petitioners had returned the goods and after adjusting those amounts, a sum is found due which is solicited by them. Prima facie, there is material on record to show that there was transaction of supply of goods by the respondent to the petitioners, albeit liability is not accepted by the petitioners.

7. The probable pleas of defense raised by the petitioners in respect

of limitation, jurisdiction of the Commercial Court, statement of account and supply of inferior quality of goods are dealt with by the Trial Court. I find that a reasonable view has been arrived at.

8. The application Exhibit-9 submitted by the petitioners was not accompanied by the documents. The documents annexed at Exhibit-F, staking monetary claim against the respondent/plaintiff are coming to the fore for the first time. Neither the pleadings of the parties nor the impugned order would disclose that the documents in support of application Exhibit-9 were placed on record. I am not being impressed by the submission that petitioners are entitled to recover amount of Rs.4,09,347/- from the respondent. The defense tried to be raised needs objective scrutiny during the course of the trial.

9. The claim of the respondent is for Rs.10,88,569/-. Considering the probable defense raised by the petitioners, they were granted permission. It is not that condition of depositing of part of the amount claimed by the respondent, can not be imposed. Sub-Rule (5) of Rule 3 of Order XXXVII empowers the Trial Court to impose the condition of depositing the amount. I find no merit in the submission that such a condition can not be imposed unless amount claimed is fully or partly admitted by the defendants. In that view of the matter, the Trial Court has rightly exercised the jurisdiction within the four corners of law.

10. I do not find any perversity or error of jurisdiction in the

impugned order. A plausible view has been taken by the Trial Court. No case is made out to cause interference in the impugned order.

11. Accordingly, the Writ Petition is disposed of.

[SHAILESH P. BRAHME]