

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7960 OF 2023

Snehal Pawar **PETITIONER**
: **VERSUS :**
Naresh Kumar & Anr. **RESPONDENTS**

WITH
WRIT PETITION NO. 52 OF 2024

Naresh Kumar & Anr. **PETITIONERS**
: **VERSUS :**
Weerwinder Technologies India Pvt. Ltd. **RESPONDENT**

Ms. Swatantri Waghmare for the Petitioner in WP-7969-2023 and for Respondent in WP-52-024.

Mr. Sharad Kulkarni through V.C. with Mr. Swapnil Kalokhe i.b. Ms. Shilpa V. Kadam, for the Petitioner in WP-52-2024 and for Respondent in WP-7960-2023.

CORAM : SANDEEP V. MARNE, J.

DATED : 4 FEBRUARY, 2026.

P.C :

1) These two petitions depict passing of diametrically different orders passed by two different courts relating to grant of leave to defend.

Writ Petition No.52 of 2024:

2) The petition challenges order dated 8 September 2023 passed by the Trial Court rejecting the application filed by the Petitioner-Defendant under Order 37 Rule 3 of the Code of Civil Procedure, 1908 seeking leave to defend.

3) I have heard Mr.Kulkarni, the learned counsel appearing for the Petitioner and Ms.Waghmare, the learned counsel appearing for the Respondent and have considered the submissions canvassed by them.

4) Mr. Kulkarni submits that in similar suit. Another Court has granted conditional leave to defend subject to deposit of 30% of claimed amount. There appears to be a clear email by Mr. Sandeep Chikatimaria, on behalf of the Petitioners admitting the liability in the sum of Rs.62,73,312/- in the Books of the Company. This admission is sought to be explained by the Petitioners contending that the said Mr. Sandeep Chikatimaria, was not authorised to give such an admission. The relation with Mr. Sandeep is also sought to be questioned contending that he was not the employee of the Company. However, various correspondence indicates that the Plaintiff has corresponded with Mr. Sandeep from time to time. In view of specific admission in the email, in my view, only conditional leave to defend can be granted in favour of the Petitioner-Defendant. Considering the facts of the case, the conditional leave can be granted subject to deposit of 50% amount claimed in the suit. At this stage, Mr.Kulkarni, seeks time of 4 months to deposit 50% of the amount claimed in the suit.

5) Accordingly, the Writ Petition is partly allowed by modifying the order dated 8 September 2023. On the condition of deposit of 50% amount claimed in the Suit within a period of 4 months from today, the Defendants in the Suit shall have leave to defend the Suit. The Writ Petition is partly allowed in the above terms.

Writ Petition No.7960 of 2023 :

6) The Plaintiff has challenged order dated 8 February 2023 passed by the Civil Judge Senior Division, Pune granting conditional leave to defend on deposit of amount of Rs.12,00,000/- by the Defendants. According to the Plaintiff, the total amount due is Rs.36,79,685/- and that there is express admission by the employee of the Defendants in respect of the said amount. I have already taken cognizance of the email of Mr. Sandeep Chikatimaria, which covers total amount of Rs.62,73,312/- which is without TDS. After adding TDS, the admitted amount apparently covers the amounts claimed by the Plaintiff in both the Suits. In that view of the matter, similar parameter needs to be adopted in the present petition as well by granting conditional leave subject to deposit 50% of the amount claimed in the plaint. Since the amount claimed by the Plaintiff is Rs.36,79,685/-, Defendants need to deposit an amount of Rs.18,00,000/- in Special Summary Suit No. 18 of 2020. At this stage, Mr.Kulkarni, the learned counsel appearing for the Defendants, on instructions, submits that amount of Rs.12,00,000/- is already deposited in the Court and time of four months be granted for making deposit balance amount of Rs.6,00,000/-.

- 7) The Writ Petition is partly allowed by modifying order dated 8 February 2023 and by increasing the amount of deposit to Rs.18,00,000/-. Defendants shall have time upto 4 months for deposit of balance amount of Rs.6,00,000/- in the Trial Court.
- 8) Since the two suits are before two separate courts, the orders relating to leave to defend are diametrically different. In one suit, the leave to defend is rejected, whereas in another suit the leave to defend is granted subject to deposit of part amount. Since both the suit arise out of same/similar transactions, it is appropriate that the same are heard by the same Court. The Principal District Judge is accordingly requested to assign Spl.Summary Suit No.18 of 2020 and Spl.Summary Suit No.19 of 2020 before the same Court. Plaintiff in both suits shall accordingly file a formal application before the Principal District Judge, who shall proceed to assign both suits to same court.
- 9) With the above directions, both the petitions are **disposed of**.

[SANDEEP V. MARNE, J.]