



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

WRIT PETITION NO. 7387 OF 2025

Dalvi and Sons, a HUF acting through its Karta Manoj
Tukaram Dalvi, Aged 63 years, Occ: Business, R/o Shivranjini
Apartment, Congress Nagar, Nagpur.

PETITIONER

VERSUS

M/s Pancham Trading, a proprietary firm acting through
its Proprietor Omprakash Kanhaiyyalal Bhirani, Aged 40
years, Occ: Business, R/o Block No.19, Gulmohar Residency-II,
North Civil Lines, Jabalpur (MP) at present C/o Pancham
Trading, Plot no.20, Harvey Sabhapati Layout, Cotton
Market, Nagpur.

RESPONDENT

Shri R.M. Sharma, counsel for the petitioner.
None for the respondent, though served

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : MARCH 09, 2026

ORAL JUDGMENT

RULE. Rule made returnable forthwith. Heard the learned counsel for the petitioner.

2. The petitioner-Licensors assails the order dated 09.10.2025 passed by the Appellate Court on the application at Exhibit 10 under Order XV-A Rule 1 of the Code of Civil Procedure, 1908 (for short, 'the Code') by which directions were sought to the respondent-Licensee to deposit monthly license fees including the arrears up to date.

3. In response to the notice issued in this petition, the respondent was served but nobody appeared on its behalf and by orders dated 10.02.2026 and 24.02.2026, in order to grant an opportunity to the respondent, the matter was adjourned for today. Today also, nobody appeared for the respondent and the matter is taken up for final disposal.

4. The petitioner-Licensors had filed Regular Civil Suit no.37 of 2015 for possession, recovery of amount towards electric bill and damages, which came to be dismissed on 08.05.2024. Feeling aggrieved, the petitioner-Licensors filed Regular Civil Appeal no.9 of 2025 in which he filed separate application at Exhibit 10 seeking direction to the respondent to deposit arrears of license fees and regular payment of occupation charges during pendency of the appeal. On 09.10.2025, the Appellate Court decided this application and directed the respondent-Licensee to deposit Rs.40,000/- (Rupees Forty Thousand) per month towards license fees commencing from August-2025. Although the application was allowed, the petitioner-Licensors has challenged this order by way of instant petition since the arrears of license fees are not directed to be paid.

5. Shri R.M. Sharma, learned counsel for the petitioner submitted that the respondent-Licensee is occupying the suit premises since long and is in arrears of license fees from 01.02.2017 as demonstrated in the application before the Appellate Court. He submitted that the arrears have been accumulated for a period of eighty nine months at the rate of Rs.40,000/- per month amounting to Rs.35,60,000/-. He submitted that in view of the provisions of Order XV-A of the Code, the Appellate Court is entitled to issue directions for deposit of arrears of license fees and even though the application is allowed, there is no direction to pay the arrears of license fees.

6. The contentions canvassed on behalf of the petitioner-Licensors remain uncontroverted by the respondent.

7. It has to be seen that vide application at Exhibit 10, the licensor has claimed arrears of license fees for the period from 01.02.2017 to 30.06.2024 at the rate of Rs.40,000/- per month. The impugned order refers to the contention of the licensor with regard to the claim for arrears of license fees, however only on the pretext that the licensee has disputed the arrears, has refused to adjudicate the issue and resultantly did not issue any direction about payment of arrears of license fees. It has to be noted that only on the basis of bare denial by the licensee, the crucial issue about entitlement of the licensor for arrears of license fees is not adjudicated. The conduct of the licensee has also to be taken note of who has simply denied the alleged amount of arrears before the Appellate Court and has even failed to appear before this Court and resultantly the contentions of the licensor remain uncontroverted.

8. In view of the controversy about entitlement of the licensor for arrears of license fees, it was imperative for the Appellate Court to adjudicate the said issue and pass appropriate orders about the claim of the licensor for arrears of license fees. In view this, interest of justice demands that the matter is relegated to the Appellate Court for deciding the application afresh so that the issue is property adjudicated. The Appellate Court is required only to adjudicate the issue of entitlement of the licensor for arrears of license fees and the earlier order passed by the Appellate Court dated 09.10.2025 (judgment impugned in the writ petition) to the extent of direction to pay future license fees of Rupees Forty Thousand per month is not disturbed.

9. In view of above mentioned factual and legal aspects, the following order is passed:-

- I. The writ petition is partly allowed.
 - II. The Appellate Court is directed to consider the issue about claim of the licensor for arrears of the license fees and adjudicate the same by reconsidering the application at Exhibit 10. Needless to state, the reconsideration of the application at Exhibit 10 be done after giving due opportunity of hearing to the parties concerned.
 - III. Having regard to the controversy involved, the Appellate Court is directed to decide the appeal expeditiously.
10. In view of this, the writ petition is disposed of with no order as to costs. Rule accordingly.

(PRAFULLA S. KHUBALKAR, J.)