

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1603 OF 2014**

M/s. Hansraj Dhanji Talpatriwala	..Petitioner
Vs.	
Majalgaon Sahkari Sakhar Karkhana Ltd.	..Respondent

Mr. K. M. Savla i/b Mr. Manish Jagani for the Petitioner
Mr. A. R. Kapadnis for the Respondent

CORAM : R. M. SAVANT, J.
DATE : 14th JANUARY, 2015

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 30-8-2013 granting unconditional leave to the Respondent herein i.e. the Defendant. The Suit in question is filed under Order XXXVII of the Civil Procedure Code for recovery of an amount of Rs.60,00,171/- towards the erection of monsoon godown/sheds in the premises of the Respondent. In the said Suit, the Petitioner filed Summons for Judgment. The Respondent herein i.e. the Defendant filed a reply disputed the claim of RS.60,00,171/- which was made in the Suit. The Defendant also inter alia raised defences to the effect that the notice under Section 164 of the Maharashtra Co-operative Societies Act was not issued to the Defendant prior to the filing of the Suit, that the interest which was claimed is not provided for in any agreement and that the Suit filed is not within limitation. The Trial Court having regard to the said defences which were taken, held that the Defendant is entitled to unconditional leave to defend. In my view, having regard to the aforesaid

objections which have been raised by the Defendant, the Trial Court was right in observing that triable issues have been raised and resultantly granted the unconditional leave to the Defendant. Hence no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

2 However, in the facts and circumstances of the case, the hearing of Summary Suit No.3400 of 2009 is expedited.

[R.M.SAVANT, J]