

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.**

WRIT PETITION NO. 7850 OF 2015

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Atul Damale, Senior Counsel i/b Mehul Shah for the Petitioner.

Mr. P. J. Thorat i/b S.K. Jain & Asso. for the Respondent.

CORAM : K. K. TATED, J.

DATED : 27/06/2016

PC.:

. Heard.

2 By this petition under Article 227 of the Constitution of India, the petitioner original defendant challenges the order dated 09.07.2015 passed by Bombay City Civil Court at Bombay in Summons for Judgment No. 60 of 2012 in Summary Suit No. 3561 of 2012 granting conditional leave to defendant to defend the suit on condition to deposit sum of Rs.10,00,000/- in the Court within four weeks from the date of order.

3 The learned Senior Counsel for the defendant submits that the Court below failed to consider the fact that the plaintiff issued cheque for sum of Rs.10,00,000/-towards the payment of rent in

respect of defendant's godown, which was in possession of the plaintiff on rental basis. He further submits that the court below also failed to consider the fact that the suit is based on cheque and therefore, summary suit is not maintainable. Hence, order passed by the Trial Court is required to be set aside allowing the defendant's to defend the summary suit unconditionally.

4 I heard both the sides at length. It is to be noted that though the defendant raised objection about payment of Rs.10,00,000/- rent towards godown, they failed and neglected to place on record single document in support of their contention. Not only that, the summary suit filed by the plaintiff not on the basis of cheque, but on the basis of confirmation of the statement of account.

5 Considering these facts and the order passed by the Trial Court directing defendant's to deposit sum of Rs.10,00,000/-, I do not find any reason to interfere with the well reasoned order.

6 At this stage, the learned Senior Counsel for the petitioner submits that since 06.08.2015 this Court extended time to deposit sum of Rs.10,00,000/-. Hence, defendant may be permitted to deposit the said amount in the Trial Court within eight weeks from today.

7 On the other hand, the learned Counsel for

the respondent plaintiff vehemently opposed. He submits that since 06.08.2015, the defendant failed and neglected to comply the said order. He submits that time to deposit the amount was extended from time to time.

8 Considering the submissions made by learned Senior Counsel for the defendant and learned Counsel for the plaintiff, in the interest of justice, two weeks time is granted to comply the order dated 09.07.2015 passed by Bombay City Civil Court at Bombay in Summons for Judgment No. 60 of 2012.

9 If defendant failed to deposit the said amount within stipulated time as stated herein above, respondent plaintiff is entitled to take appropriate steps according to law.

10 Hence, following order is passed:

- a) Writ Petition stands rejected.
- b) Two weeks granted to the petitioner to comply the order dated 09.07.2015 passed by Bombay City Civil Court at Bombay in Summons for Judgment No. 60 of 2012.

(K.K.TATED, J.)