

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION*

WRIT PETITION NO. 1580 OF 2016

Mr.Ganapati Dnyanu Jamdade .. Petitioner
Vs.
Mr.Mukesh Vilas Patil .. Respondent

Mr.Anand Patil, for the Petitioner.
Mr.Abhijit Adagule, for the Respondent.

***CORAM : N.M.Jamdar, J.
Thursday, 22 September 2016.***

P.C. :

By this Petition, the Petitioner challenges the order dated 9 October 2015 passed by the learned Civil Judge Junior Division, Panhala below Exhibit 34 in Summary Suit No.1 of 2013 in respect of the application taken out by the Respondent-Defendant seeking leave to defend.

2. The learned counsel for the Petitioner has advanced various contentions on merits of the dispute. However, it is necessary to consider the same at this stage as the learned Civil Judge has not concluded the issue regarding imposition of conditions. As far as the argument of the learned counsel for the Petitioner that the leave to defend itself should not be granted at all, it is not the case where the Respondent has admitted the claim and stated that he has no defence.

Detailed say has been filed, various theories have been put forth by the Respondent, including that the cheque was given for the purpose of security. Considering this position the learned Civil Judge has exercised a discretion in granting leave to defend. As far as imposition of conditions are concerned, the Petitioner can always argue that the amount be directed to be deposited or stringent conditions be imposed. Such argument, if it is made, no doubt will be considered on its own merits but as stated earlier, it cannot be said that there is no defence at all by the Respondent. Since the question of imposition of conditions is left open, learned Civil Judge will consider the same on its own merits. Writ Petition is accordingly disposed of.

(N.M.Jamdar, J.)