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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**SUMMONS FOR JUDGMENT NO. 115 OF 2014
IN
SUMMARY SUIT NO. 757 OF 2014**

Mr Shahnawaz Y. Rais & Anr.

...Applicants/Plaintiffs

VS

Mr Adil Bhure & Anr.

...Defendants

None for the Plaintiffs

Mr Rohit D. Joshi for the Defendants.

CORAM : S.C. GUPTE, J.

FEBRUARY 22, 2016

P.C. :

None for the Plaintiffs. Even on the last occasion, time was sought on the ground that arguing counsel appearing for the Plaintiffs was not available on that date. The suit is filed on the basis of a loan of Rs.3 Crores which was said to have been granted against six postdated cheques issued by the Defendants in favour of the Plaintiffs for a sum of Rs.3 Croes. It is the case of the Plaintiffs that these cheques were dishonoured for the reason "funds insufficient". The Defendants have filed a reply to the Summons for Judgment raising a defence of issuance of cheques in good faith by way of accommodation to facilitate certain cash transactions and not towards repayment of any loan. The Defendants dispute any loan being extended by the Plaintiffs to them. Though in Criminal proceedings filed in respect of dishonour of cheques an order was originally passed for issuance of process by the learned Metropolitan Magistrate, the Court of Sessions, by its order dated 16 December 2014, was

pleased to quash the proceeding and dismiss the criminal complaint filed by the Plaintiffs. It is, accordingly, submitted that the Defendants have a good defence to the suit instituted by the Plaintiffs. On these facts, the Defendants are entitled to unconditional leave to defend the suit.

2 Accordingly, the Defendants are granted leave to defend the suit unconditionally. The suit is transferred to the list of commercial causes. The written statement to be filed within six weeks from today. List the suit for directions after six weeks.

(S.C.GUPTE J.)