

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

WRIT PETITION NO.11829 OF 2016

M/s. Yash Ayur International & Anr. ... Petitioners

Versus

M/s. Shree Ambika Printers & Publication ... Respondent

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Mr. Anil S. Gawas for the Petitioners.

Mr. Prasad K. Das for the Respondent.

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CORAM: Mrs. MRIDULA BHATKAR, J.

DATED: APRIL 17, 2017

P.C. :

1. This writ petition is directed against the order dated 9th August 2016 passed by the learned Ad-hoc Judge, City Civil Court, Greater Bombay in Summons for Judgment No. 65 of 2016 in Summary Suit No. 3371 of 2013 thereby granting the defendants conditional leave to defend the Suit subject to deposit sum of Rs. 8,00,000/- within six weeks.

2. The learned counsel for the petitioners submits that in the reply the petitioners have raised a point of territorial jurisdiction and the issue of jurisdiction is pending. He further submits that earlier the defendants had issued 16 cheques in favour of the plaintiff for a sum

of Rs. 25,000/- each totaling to Rs. 4 lakhs and therefore, at the most the petitioners be directed to deposit a sum of Rs. 4 lakhs and not Rs. 8 lakhs.

3. The learned counsel for the respondent i.e. original plaintiff relies on the averments made in the plaint and the bill of Rs. 8,76,956/- was raised by the plaintiff, who had provided the advertising services to the petitioners i.e. defendants. He further submits that by a letter dated 30th September 2012, which is marked as Exhibit-D to the plaint, the defendants have admitted the liability and therefore, the order dated 9th August 2016 passed by the learned Judge is justified.

4. Perused the averments made in the petition, plaint and also Exhibit-D. It is admitted that the petitioners i.e. original defendants had issued 16 cheques of Rs. 25,000/- each totaling to Rs. 4 lakhs in favour of the plaintiff i.e. respondent. However, those cheques were returned with an endorsement "Insufficient Funds". It is to be noted that this amount is due since 2012 and the Summary Suit filed in the year 2013. Till today, there is no payment made by the petitioners to the respondent to show their boanfides. Under such circumstances,

the order passed by the learned Judge while granting conditional leave to defend the Suit subject to deposit a sum of Rs. 8 lakhs cannot be faulted with. The petitioners are directed to deposit an amount of Rs. 4 lakhs on or before 24th April 2017 and thereafter remaining amount of Rs. 4 lakhs be deposited till 15th May 2017. Hence, Writ Petition is dismissed accordingly.

(MRIDULA BHATKAR, J.)