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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 2537 OF 2018**

Neelam Adwait Datar

.....Petitioner

V/s.

Kishor Anant Mhalas

.....Respondent

Mr. Sushil Nimbkar for the petitioner

CORAM : NITIN W. SAMBRE, J.**DATE : JULY 11, 2018.****P.C.**

In a summary suit, leave to defend granted in favour of the petitioner-defendant, subject to deposit of Rs. 3 Lakhs, by way of impugned order dated 11/12/2017, passed by 3rd Jt. Civil Judge, Senior Division, Solapur, is questioned on the following grounds.

- (a) That in probable defence of the present petitioner, it can be ex-facie demonstrated that the amount as claimed in the summary suit is not payable.

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(b) In absence of any documentary evidence on record so as to demonstrate that amount of Rs. 6 Lakhs, pursuant to MOU dated 13/08/2011 is paid to the present petitioner-defendant, a blanket leave to defend should have been granted in favour of the petitioner.

2 According to the learned counsel for the petitioner, the probable defence as is raised by the present petitioner to demonstrate that the respondent-plaintiff has no case and as such the order impugned is liable to be set aside.

3 Considered submissions.

4 The suit of the plaintiff-respondent is based on cheque that was first dishonoured on 13/10/2011, second time on 15/10/2011 and second cheque was dishonoured on 11/01/2012.

5 The law contemplates a presumption against the present

petitioner.

6 Once the aforesaid material is brought on record which is formed to be a basis for initiation for summary proceedings for recovery of amount, the order impugned putting petitioner to a condition of depositing of Rs. 3 Lakhs as a condition precedent to grant leave to defend pursuant to provisions of Order XXXVII Rule 3, in my opinion does not warrant any interference.

7 Petition is dismissed.

[NITIN W. SAMBRE, J.]