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

COMMERCIAL APPEAL LODGING NO. 202 OF 2018

IN

COMMERCIAL SUIT NO. 280 OF 2017

WITH

NOTICE OF MOTION LODGING NO. 426 OF 2018

Darsh Sanjay Jain and ors.

.. Appellants
(Org. Defts.)

Vs.

Kajal Manoj Chheda and ors.

.. Respondents
(Org.Plffs.)

Mr. Rushabh Sheth a/w Ms. Neha Shah i/by M.S. Bodhanwalla and Co. for appellants.

Mr. Rohan Rajadhyaksha with Viral Amin i/by B. Amin and Co. for respondents.

CORAM: NARESH H. PATIL &
G. S. KULKARNI, JJ.

JULY 10, 2018.

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Pandit

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1. This appeal is directed against the order passed by the learned Single Judge dated 16/3/2018 in Notice of Motion No. 638 of 2017.

2. The learned counsel for the appellants submits that in view of

the facts and considering the pleadings, a Summary Suit of this nature is not maintainable. Considering the defence of the defendants no case is made out for having triable issues in the Suit. The learned counsel submits that in accordance with the impugned order, an amount of Rs.12.50 lakhs has been deposited in the Suit account. It is submitted that merely on confirmation entry in the accounts, plaintiffs are taking benefit by filing a Suit.

3. The learned counsel appearing for the respondents submits that there is no explanation as to how the subject cheque came into possession of the plaintiffs. There is no defence raised questioning the signature on the cheque. The Suit of this nature is maintainable and the court has jurisdiction, according to the learned counsel.

4. Perused the impugned order, record placed before us and considered the submissions advanced. In accordance with the order passed by the learned Single Judge, the appellants have already deposited Rs.12.50 lakhs. The issues raised by the contesting parties here can be raised before the learned Single Judge, including the issue of jurisdiction as and when the Suit would be tried. We do not find merit in the appeal. It is clarified

that all issues on merits, including the deposit made by the appellants consequent to the order passed by the learned Single Judge, are kept open.

5. With the aforesaid observations, appeal is dismissed.

6. Notice of Motion (L) No. 426 of 2018 does not survive and is disposed of.

(G. S. KULKARNI J.)

(NARESH H. PATIL,J.)