

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.13246 OF 2018

**VIJAY ALIAS AMRUT PUNA BIRHADE
VERSUS
SANJUV DHARMA SANDANSHIV**

...
Advocate for the Petitioner : Shri P. B. Patil with
Shri P. H. Patil
...

CORAM : RAVINDRA V. GHUGE, J.

DATED : 07th JANUARY, 2019.

...

PER COURT :

1. This matter was heard on 04/01/2019.
2. Though I was inclined to dismiss the petition, the learned Advocate for the petitioner prayed for some time to take instructions, whether, the petitioner is willing to deposit any amount so as to raise a defence in the summary suit. Today, the learned Advocate for the petitioner submits, on instructions, that he is not in a position to deposit any amount.
3. It appears from the submissions of the learned Advocate for the petitioner and the record that the respondent had given

a hand loan of Rs. 8,00,000/- to the petitioner. Subsequently, the petitioner issued 16 cheques bearing the same date for an amount of Rs. 50,000/- each. Cheques with different numbers were issued on 27/05/2015. It is undisputed that the petitioner signed each of those cheques and handed them over to the respondent.

4. The respondent found that the payment was stopped by the petitioner by instructing the bank not to clear the said cheques. It was in this backdrop that the respondent initiated the summary suit.

5. I have perused the application filed by the petitioner dated 04/10/2016, seeking a right to defend. There is no denial that the 16 cheques were issued by him. There is no denial that the petitioner had put his signature on each of these cheques. The only ground raised was that there is no written contract between the petitioner and the respondent and hence, leave to defend may be granted.

6. The Trial Court has considered order XXXVII Rules 1(2)

and 3(5) of the Code of Civil Procedure. In the light of the said provisions, it has perused the application filed by the petitioner. The Trial Court noticed that the petitioner has not taken any defence on the factum of issuance of cheques so as to make the payment of Rs. 8,00,000/- to the respondent. There is no denial of issuance of cheques, as well as, the petitioner's signature appearing on the cheques. No defence, therefore, appears to have been put forth. I could have considered the case of the petitioner if he would have deposited 50% of the amount. He is not agreeable to deposit any amount in the Court.

7. In view of the above, I do not find any reason to entertain this petition and the same is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

shp/-