

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

Amk

COMMERCIAL APPEAL NO. 388 OF 2019
IN
NOTICE OF MOTION NO. 805 OF 2019
IN
COMMERCIAL SUIT NO. 1402 OF 2018

Pradeep S. Dixit & Anr.

.. Appellants

Vs.

Saidammadath Narukkindakath & Anr.

.. Respondents

Mr. Ausman Gangoly A/W. Ms. Srushti More i/b M/s. Apex Law
Partners for the Appellants.
None for the Respondents.

CORAM : PRADEEP NANDRAJOG, C.J. &
NITIN JAMDAR, J.
DATE : 1st AUGUST, 2019.

P. C. :

1. There is no merit in the Appeal which lays a challenge to an order dated 09.04.2019 passed in Commercial Notice of Motion No. 805 of 2019 in Commercial Suit No. 1402 of 2018. The suit has been premised on a deed of cancellation dated 07.01.2018 recording that the previous agreement dated 17.06.2017 between the parties is rescinded and sum of ₹ 2,10,02,795/- was liable to be refunded by the Appellants to the Respondents and for which post-dated cheques, being six in number, were tendered. The cheques bounced.
2. The impugned order records that even before the Court the

Appellants admitted their liability to pay under the deed of settlement. Deferring consideration of what interest needs to be paid by the Appellants to the Plaintiffs, in the impugned order the learned Single Judge has simply directed that the Appellants would pay ₹ 2.10 Crores to the Plaintiffs.

3. Learned Counsel for the Appellants states that the Appellants are ready to pay the amount if proceedings under Section 138 of the Negotiable Instruments Act initiated by the Plaintiffs is withdrawn.

4. Suffice it to state that in proceedings under Section 138 of the N.I. Act tendering the amount is a means to have the complaint rendered infructuous. The Appellants after tendering the amount as per the impugned order can move applications in the Court of learned Magistrate.

5. The Appeal is dismissed.

[NITIN JAMDAR, J.]

[CHIEF JUSTICE]