

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 3894/2019

Sanjay P. Gupta & ors.

..VS..

Upasana Wd/o R. Krishnakumar Gupta & ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri J.B. Kasat, Advocate for the petitioner(s)

CORAM : Z.A.HAQ, J.
DATED : 11/06/2019

Heard.

By the impugned order, the trial Court has granted leave to the petitioners – defendants to defend the summary suit, however, on condition that the defendants shall furnish solvent surety for an amount of Rs. 14,35,000/- within two months and they shall deposit an amount of Rs. 2,15,000/-. The contention of the petitioners is that the claim of the plaintiffs is barred by limitation and the defence raised by the defendants raises triable issue and the learned trial Judge is also satisfied to that extent, and therefore imposition of the condition of furnishing the solvent surety and depositing the amount is unwarranted.

To support the submission, the learned advocate for the petitioners has relied on the judgment given in the case of IDBI Trusteeship Services Limited vs. Hubtown Limited reported in (2017) 1 SCC at page 568.

The dispute is between the family members. The plaintiff no. 1 is the widow of cousin brother of the defendants. The plaintiff no. 2 is the daughter of the plaintiff no. 1, and the plaintiff no. 3 is the minor son of the plaintiff no. 1. The plaintiffs have filed the civil suit to recover the amount for which the defendants had issued the post dated cheques and the cheques are not honored.

I am conscious about the principles to be kept in mind while considering the issue of grant of leave to defend in the summary suit, however, in the facts of the present case, I see no reason to interfere with the impugned order.

The writ petition is **dismissed**. No costs.

As the defendants have filed this petition, they have not complied with the condition imposed by the trial Court and the time for compliance has expired.

Time to comply with the directions of the trial Court is extended till 29/06/2019.

JUDGE

Ansari