

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

WRIT PETITION NO.1482 OF 2022

**GODAVARI INDUSTRIAL TRADERS THR. ITS PARTNERS VISHNUDAS
JAIKISHANJI RATHI AND ANOTHER
VERSUS
BRIJMOHAN MADANLAL BANGAD AND OTHERS**

...
Advocate for Petitioner : Mr. S.G. Chapalgaonkar
Advocate for Respondent Nos.1 to 4 : Mr. Swapnil Rath
...

CORAM : MANGESH S. PATIL, J.

DATED : 16 JUNE 2022

PER COURT :

1. The petitioners are the defendants in the summary suit, aggrieved by the order directing them to deposit an amount of Rs.22,00,000/- (Rupees Twenty Two Lakhs Only) as a condition for granting leave to defend the suit.
2. I have heard the learned advocates of both the sides extensively.
3. At the end of arguments, the learned advocate for the petitioners submits that there are no special reasons given by the trial court as to why a cash has been directed to be deposited as a security in tune with the clause 6(b) of Rule 3 of Order XXXVII of the Code of Civil Procedure.
4. Going by the nature of the dispute, the respondents/plaintiffs are claiming to have paid various amounts to the petitioners by way of loan. The

petitioners though admitted the fact about the receipt of the amounts, according to their learned advocate, simultaneously issues regarding territorial jurisdiction and limitations also arises. He submits that over and above, there are documents to substantiate their stand that the respondent no.2 was in fact participating in the petitioners' business. Even the trial court in the order under challenge has referred to and discussed this aspect.

6. Learned advocate Mr. Chapalgaonkar, therefore, submits that in the absence of any special and specific reasons, instead of a security in the form of deposit of cash amount of Rs.22,00,000/- (Rupees Twenty Two Lakhs only), the petitioners are ready to furnish a bank guarantee of a nationalized bank which should serve the purpose.

7. Considering all the aforementioned facts and circumstances, the writ petition is partly allowed. The impugned order is modified to the effect that instead of depositing of Rs.22,00,000/- (Rupees Twenty Two Lakhs Only) in cash the petitioners shall furnish a bank guarantee of a nationalized bank within a period of four weeks, which should be kept alive till termination of the lis.

(MANGESH S. PATIL, J.)