

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4994 OF 2021

Hemant Vasant Garibe and Anr.

..Petitioners

Versus

Kishor Balchand Jain

..Respondent

Mr. Rahul R. Patil, for the Petitioners.

CORAM : NITIN W. SAMBRE, J.

DATE : 28th MARCH, 2022

PC.

1. Heard.

2. Though served none appears for the respondent.

3. This petition is by the defendants in Special Summary Suit No.153 of 2017 pending on the file of Second Joint Civil Judge, Senior Division, Pune, wherein Court below while dealing with grant of unconditional leave to defend has directed the petitioner/defendant to deposit an amount of Rs.10,35,500/-.

4. The petitioners have informed and have also filed pursis that an amount of Rs.8,00,000/- is already deposited in the Court below.

5. The amount of Rs.8,00,000/- which is deposited is based

on the fact that the pleadings in the plaint depict an amount of Rs.8,00,000/- alleged to have received by the petitioners/defendants through cheque whereas balance amount is in tact.

6. Since the amount on cheque as has been alleged can be inferred to have been *prima-facie* paid to the petitioners/defendants, the order impugned stands modified to that extent.

7. As such, conditional leave to defend is granted as the petitioners have already deposited an amount of Rs.8,00,000/- in the Trial Court. The order impugned as such stands modified.

8. The petition stands disposed of in above terms.

[NITIN W. SAMBRE, J.]