

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

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COMMERCIAL APPEAL NO. 55 OF 2021
IN
SUMMONS FOR JUDGMENT NO. 21 OF 2019
ALONGWITH
INTERIM APPLICATION (L) NO. 23727 OF 2021
IN
COMMERCIAL APPEAL NO. 55 OF 2021

Anupama Agarwal and Ors.

....Appellants

V/s.

IL and FS Financial Services Limited

...Respondents

Mr. Amrut Joshi a/w Ms. Leona Furtado and Mr. Abhishek Thole for Appellants.

Dr. Birendra Saraf, Senior Advocate a/w Ms. Ankita Agrawal and Mr. Gaurav Suryavanshi i/b DSK Legal for Respondent.

CORAM : K.R. SHRIRAM &
RAJESH S. PATIL, JJ.
DATED : 9th JANUARY 2023

P.C. :

1. This is an appeal impugning conditional leave to defend being granted to appellant who are defendant in the summary proceedings. Mr. Joshi in fairness as an officer of the court states that this court in ***Skill Himachal Infrastructure & Tourism Ltd. And Ors. Vs. IL & FS Financial Services Ltd.***¹ has held that an appeal from an order granting conditional leave to defend in a Summons for Judgment in a Commercial Summary Suit is not maintainable in view of Section 13 of the Commercial Courts Act. Mr. Joshi in fairness also states that here also conditional leave to defend for

1 2022 SCC OnLine Bom 3152

Summons for Judgment in Commercial Suit has been granted. Therefore, this appeal will not be maintainable.

2. Appeal dismissed.

3. We clarify that appellant is at liberty to take such steps as required in accordance with rules.

4. Dr. Saraf for respondent states that in any event appeal will not be maintainable since in the order dated 20th August 2020, copy whereof is at Exhibit “B” to the appeal memo, appellants had agreed to deposit the amount which has been directed to be deposited vide impugned order.

5. Consequently, Interim Application also stands dismissed.

(RAJESH S. PATIL, J.)

(K.R. SHRIRAM, J.)