

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

Writ Petition No.8039 of 2022

Ajay S/O Murlidhar Laddha

Vs

Jagdishraj Harikisanlalji Chhabda

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri P.R. Agrawal, Advocate for the Petitioner/s

Shri J.J. Chandurkar, Advocate for the Respondent-sole

CORAM : ANIL S. KILOR, J.

DATED : 26.07.2023

1. Heard.
2. In the present petition, the order rejecting the application Exh.24 moved by the defendant seeking leave to defend, is under challenge.
3. The application was rejected on the ground that no defence is raised by the defendant. To find out the correctness of the order, I have perused the application for leave to defend. Paragraph 3 of the application is relevant, which reads thus:

“3. That, on service of summon as contemplated under Order 37 Rule 3 sub-rule 3, the defendant is seeking this leave to defend the suit there by seeking such permission to defend arising the following aspects to be consider for such leave

a. Whether, this Hon’ble Court can dealt with the present suit as “Summary Suit” in view of 13 Bombay amendment to the provision of Order 37 Rule 1 of CPC.

b. Whether, the claim made by the plaintiff covers under the classes of suit to which the provision of Order 37 CPC applies?

c. Whether, the claim as put forth by the of plaintiff is genuine or excessive?

d. Whether, there is any cause of action to the plaintiff for filling the present suit, if so whether the plaintiff has specifically pleaded it?”

4. The defendant in stead of raising the defence, framed questions for the Court to decide.

5. Thus, from the application it is evident that, the findings recorded by the learned trial Court are just and proper and as not defence is raised, the application cannot be allowed. Hence, I do not find any merits in the present petition. Accordingly, it is **dismissed**.

[ANIL S. KILOR, J.]