

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 253 OF 2026  
WITH  
INTERIM APPLICATION NO. 1620 OF 2026  
IN  
APPEAL FROM ORDER NO. 253 OF 2026

Dilip Suresh Jadhav and Anr.

.. Appellants

**Versus**

Gauri Durga Kunchikorve

.. Respondent

- .....
- Mr. Jigar K. Agarwal a/w. Mr. Niranjan Kondyala, Advocates for Appellants.
  - Mr. Kishor G. Pashte, Advocate for Respondent.
- .....

CORAM : MILIND N. JADHAV, J.

DATE : APRIL 29, 2026.

**P.C.:**

1. Heard Mr. Agarwal, learned Advocate for Appellants and Mr. Pashte, learned Advocate for Respondent.
2. The impugned order is an order passed in Summons for Judgment No.247 of 2024 which is dated 08.01.2026.
3. I have heard the submissions made on behalf of Appellant who is original Defendant before the Trial Court. *Prima facie* it is seen that there is a nexus between the Plaintiff and Defendant whereby Plaintiff and Defendant have exchanged monies for the purpose of lending and borrowing which has led to the present *lis* between the

parties. Plaintiff has filed Suit for recovery of an amount of Rs.3.5 lakhs on the premise that she had advanced the said amount to Defendant and the parties had also exchanged various documents.

4. The learned Trial Court has taken cognizance of the relationship of the parties and passed a detailed judgment, *inter alia*, granting conditional leave to Defendant to defend the Suit proceedings subject to payment of Rs.2 lakhs within two months.

5. Being aggrieved by the said order, Defendant is before this Court. In the course of submissions, learned Advocate appearing for Defendant has addressed the issues on merits which have been taken cognizance of by the learned Trial Court as also persuaded the Court to consider the fact that Defendant is having certain exigences, *inter alia*, relating to the health of this wife and therefore he persuades the Court to reduce the amount which has been directed to be deposited as condition precedent for defending the Suit proceedings. He has also referred to various findings which are returned in the impugned judgment.

6. Advocate for Plaintiff appears today. He would argue that the grievances of Defendant are sham and bogus and it is *prima facie* clear that the amount of Rs.3.5 lakhs which has been lent to him is duly evidenced by the documentary evidence which has been considered by the Court. He would submit that the said documentary

evidence was the cheque, promissory note and the stamp paper in the name of Plaintiff.

7. Be that as it may, after hearing the learned Advocates appearing for the parties it is *prima facie* gathered from the impugned order itself that this was not the only transaction between the parties. There are other transactions which are also referred to *inter se* between the parties and also the relatives of the concerned parties.

8. In that view of the matter and considering the exigency mentioned by the Appellants, I am inclined to accept the submissions made by the learned Advocate for Defendant and reduce the amount which has been directed to be deposited by the learned Trial Court from Rs.2 lakhs to Rs.1 lakh. Undertaking to that effect has been filed by Defendant dated 29.04.2026 assuring the Court to deposit the said amount within a period of six weeks from today before the learned Trial Court as per the directions contained in the order dated 08.01.2026 which is accepted and allowed by the Court. Rest of the impugned order dated 08.01.2026 remains as it is, save and except the amount of Rs.2 lakhs appearing on internal page No.9 of the order which shall stand substituted in line No.5 on the said page and in the operative clauses 1(a) and 1(b) of the said order to Rs.1 lakh.

9. Present order shall be read with the impugned order dated 08.01.2026.

10. All contentions of the parties are expressly kept open without this Court giving any imprimatur and observations and findings

11. The Trial Court shall decide the Suit without being influenced by any of the observations in the present order as well as the impugned order dated 08.01.2026 while determining the *lis* between the parties.

12. In view of the above order and directions, Appeal From Order and Interim Application are disposed.

[ MILIND N. JADHAV, J. ]

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signed by AJAY  
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