

MHNS020045712022 	SCS No.126/2022 Savita Ekhande Vs. Lata Ramesh Kardak + 1
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ORDER BELOW EXH. 13 IN SCS NO.126/2022

(Passed on 16th July, 2025)

1. The instant application filed by the defendant Nos.1 and 2 for granting leave to defend in the suit.
2. It is contention of the defendants that the plaintiff suppressed material facts and the negotiations meetings took place between the parties, the defendant paid Rs.1,00,000/- and Rs.90,000/- to the plaintiff as agreed between them. However, the plaintiff has not disclosed the same in his plaint. The suit of the plaintiff is not maintainable under Order XXXVII of the CPC. The defendants in support of his contention filed his bank statement and other documents below list Exh.18.
3. The plaintiff opposed the application by his say and submits that, the plaintiff had given a notice on 12.08.2022 to the defendants, however defendants not reply to the same. Defendants have not paid any amount to the plaintiff. Now, the defendants have no right to give their defence in the suit.
4. Perused application, say thereon and record. Heard Ld. Advocate Smt. J. N. Patil for Advocate Shri. S. P. Kulkarni representing the defendants. Heard Ld. Advocate Shri. R. S. Shirsath for plaintiff.
5. Having considered the contention of defendants in the application which is supported with affidavit, it appears that the defendants have defence to make in the suit. On perusal of record it appears that suit summons for appearance served on the defendants on 26.07.2023, defendant appeared on 30.08.2023. The delay of 27 days for applying leave to defend is

condoned vide order below Exh.10 on 20.12.2023. On the same day present application (Exh.13) was taken on record. The present suit is instituted for the recovery of Rs.4,00,000/- (Rs. Four Lakhs only). It is claim of the plaintiff that defendant issued a cheque in favour of the plaintiff against the consideration amount as agreed in the sale deed dated 28.07.2021. Therefore, the present suit is for recovery has been filed by the plaintiff. Against this, the defendant claim that he paid amount of Rs.1,00,000/- and Rs.90,000/- through RTGS to the plaintiff. However, the plaintiff suppressed the said fact in his plaint.

6. In the light of above, application of defendant is supported with affidavit and documents. Disclosure of facts in the application appear sufficient to entitle him to defend. The facts indicate that he has substantial defence to raise in the suit. Hence, in the result the following order is passed;

:: ORDER ::

- 1] The application Exh.13 is hereby allowed.
- 2] The Assistant Superintended is directed to register the present suit as Regular Civil Suit.
- 3] Both parties take the note of this order.

Date : 16.07.2025

(Dr. J. V. Paliwal)
14th Jt. Civil Judge (Senior Division)
Nashik.