

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.808 OF 2023

SATISH
RAMCHANDRA
SANGAR

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Date: 2024.10.10
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Saira Abbas Balsaniya

...Petitioner

vs.

Sarfaraz Salauddin Patel

...Respondent

Mr.Hardik Desai:-	Advocate for Petitioner.
Mr.G.B.Naik a/w Mr.Dileep Satale i/b. Mr.Imtiyaz Patel:-	Advocates for Respondent.

CORAM : S. M. MODAK, J.

DATE : 9th OCTOBER 2024

P. C. :-

1. Heard learned Advocate for the Petitioner – Defendant.
2. The order granting leave to defend subject to condition dated 21st November 2022 is challenged. It is passed by the Court of City Civil – Mumbai. The Suit is for recovery of Rs.15,70,000/- (Rupees Fifteen Lakh Seventy Thousand). I have perused the order. The Petitioner raised the following contention:-

- (a) As per the averments in the Plaint, the amount is advanced in the month of October-2019 and three months thereafter. This is pleaded in notice on Page No.34. Initially, Rs.9,00,000/- (Rupees Nine Lakh) was advanced and then, Rs.6,70,000/- (Rupees Six Lakh Seventy Thousand). Whereas, the Plaint (Para No.1) avers advancing an amount of Rs.15,70,000/- (Rupees Fifteen Lakh Seventy Thousand) in the month of October-2019.
 - (b) Whereas, copy of licence alleged to be shown to the Plaintiff (Page No.32) bears the date of 13th June 2020. (after advancing the loan).
 - (c) The promissory-note is on Page No.33. It is dated 4th October 2019, means earlier to advancing the loan.
 - (d) The issue about non-maintainability of the Commercial Suit is also taken. That is referred in Para No.10 of the impugned order.
 - (e) The trial Court has transferred the Suit to the Regular Court as per the order dated 12th September 2023.
3. Now, the issue is, whether the trial Court is justified in asking the Defendant to deposit the entire sum of money or whether it ought to have been part of the amount.
4. I am not inclined to adjourn the matter. But, arguing Counsel Mr.Patel is not there. Hence, matter be kept at 2.30 p.m. It is made

clear that Court will pass the order at that time.

Later on:-

5. Learned Advocate Shri.Imtiyaz Patel for Respondent has filed a leave-note. Its copy is shown to me.
6. In view of that, let matter be kept on **16th October 2024**.
7. To be listed “**High on Board**”.

[S. M. MODAK, J.]