

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

**SUMMONS FOR JUDGEMENT NO. 19 OF 2016
IN
SUMMARY SUIT NO. 632 OF 2015**

Rashmikanth M. Shah

.. Plaintiff

Vs.

Deepesh Vijay Parikh

.. Defendant

Mr.Kiran Kulkarni a/w. Ms.K. Padmashri i/b Kulkarni & Associates for plaintiff.

Mr.P.V. Nichani for defendant.

**CORAM : K.R.SHRIRAM, J.
DATE : 29TH AUGUST, 2016**

P.C.

1 This suit is for recovering a sum of Rs.1,04,06,400/-. The claim of the plaintiff is that he lent a sum of Rs.30 Lacs with interest at 2.04 % per month as on 14th December 2005. This amount, it is alleged was paid between 14th December 2005 to 25th March 2008. It is stated that as on 31st March 2012, an amount of Rs.60,06,443/- was due and payable by the defendant. On 31st March 2012, the defendant issued 12 cheques amounting of Rs.5 lacs each and all cheques were dishonoured on presentation. It is stated in paragraph 10 of the plaint that the plaintiff commenced proceedings under Section 138 of the Negotiable Instruments Act, 1881 before the 7th Metropolitan Magistrate Court, Dadar at Mumbai. It is pointed

out to the Court by the defendant that the complaint under Section 138 of the Negotiable Instruments Act, 1881 was dismissed on 21st January 2015. However, this fact has not been disclosed in the plaint and the suit itself is based on dishonour of cheques.

2 In the circumstances, unconditional leave to defend is granted to the defendant. The summons for judgment is rejected with the following order :

- (i) The written statement to be filed and copy served within two weeks.
- (ii) Within three weeks thereafter parties to file their respective affidavits of documents and also complete discovery and inspection and also exchange their statements of admission and denial with reasons for denial.
- (iii) The suit be listed for issues after eight weeks.

(K.R. SHRIRAM, J.)