

this amount of Rs.2 crores the bank also was to be paid off.

2 On execution of the MOU dated 26th October, 2010 the plaintiff paid to the defendant a sum of Rs.2 crores. Against this payment, the defendant also issued a cheque for Rs.2 crores drawn on HDFC Bank, Mira Road Branch as a security. The plaintiff was to encash this cheque if the defendant failed to comply with the terms and conditions mentioned in the MOU.

3 It is the case of the plaintiff that the defendant did not comply with the obligations as mentioned in the MOU and when the plaintiff deposited the cheque for Rs.2 crores given by the defendant, the cheque was dishonored due to insufficient funds. It is stated that the plaintiff called upon the defendant to pay this amount of Rs.2 crores with interest but the defendant failed and neglected to pay the amount or any other amount.

4 The plaintiff has served the writ of summons and the copy of the plaint upon the defendant. One advocate Mr. Abhijeet Rane, instructed by Ms. Manjiri Phadnis had appeared for the defendant before the Prothonotary and Senior Master on 17th September, 2013

and waived service by giving an undertaking to file Vakalatnama. However, no written statement has been filed. The suit was, therefore, transferred to the list of undefended suits vide a order dated 8th December, 2014.

5 The plaintiff has also filed an affidavit of evidence of one Gautam Modi, partner of the plaintiff affirmed on 20th July, 2016 and compilation of documents. The affidavit of evidence is taken on record and marked **Exhibit P-1** and the documents are received in evidence and marked **Exhibit P-2, collectively**.

6 The averments in the affidavit are accepted. The defendant not having controverted the allegations of fact contained in the plaint, the same are deemed to have been admitted under the provisions of Order 8 Rule 5 of the Code of Civil Procedure, 1908 as amended.

7 In the circumstances, the suit stands decreed in terms of prayer clause – (a). Decree be drawn up accordingly. The plaintiff is also entitled to cost in the sum of Rs.25,000/-.

(K.R.SHRIRAM,J)