

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

**SUMMARY SUIT NO.641 OF 2014
WITH
SUMMONS FOR JUDGMENT NO.49 OF 2016**

Keyur Madhusudan Shah ... Plaintiff
versus
Rangara Industries Pvt. Ltd. ... Defendant

Ms. Anosh Sequeira i/by Ms. Vrunda Daga, for Plaintiff.
None for Defendant.

CORAM: S.J. KATHAWALLA, J.

DATE: 4th JANUARY, 2017

P.C.:

1. On 21st November, 2016 this Court (Coram : K.R.Shriram, J.) passed the following order :

"1. This suit is filed for a decree in the sum of Rs.1,23,74,147.93 of which principal amount is Rs.80 lakhs. It is stated in the plaint that at the request of the defendant the plaintiff had advanced, from time to time, a sum of Rs. 80 lakhs in five installments. It is also stated that the defendant agreed to pay interest at the rate of 5% per month from 6th April, 2011 to 25th May, 2011 and 7.5% per month from 26th May, 2011 till the date of realisation or repayment of the said loan. It is also stated that the total principal amount which was to be paid was Rs.82.50 lakhs of which Rs.2.50 lakhs has been paid back. What

remains is Rs.80 lakhs towards principal. The defendant had also vide a letter dated 6th April, 2011 issued four cheques for Rs.56 lakhs and by a letter dated 9th April, 2011 forwarded a cheque for Rs.26,50,000/- totaling to Rs.82,50,000/-. It is after this the defendant has paid Rs.2,50,000/-. It is also stated that when the cheques were deposited they were dishonored on presentation.

2 After the writ of summons were served one Manish Pradeep Gitay has filed Vakalatnama dated 26th December, 2014 on behalf of the defendant as it appears from the records. The counsel for the plaintiff states that Mr. Gitay never addressed any communication to the plaintiff's advocate informing about having filed any Vakalatnama but they got to know about his name from the board. The counsel for the plaintiff states that therefore, the plaintiff served the writ of summons upon the defendant directly on 8th July, 2016. The plaintiff has filed an affidavit of service of one Sopen Khengale affirmed on 13th July, 2016 confirming service.

3 Therefore, as the defendant has not filed any affidavit in reply and application for leave to defend, the plaintiff is entitled to judgment forthwith under Order 37 Rule 3 Sub-rule 6 of the Code of Civil Procedure, 1908.

4 The counsel for the plaintiff states that they do not have the original papers with them in court today.

5 Therefore, stand over to 5th December, 2016."

2. Today, the learned Counsel appearing for the Plaintiff has tendered the

original documents. The same are taken on record and marked Exhibits-P-1 to P-14. The reasons set out in the order dated 21st November, 2016 and the contents of the documents marked Exhibits-P-1 to P-14, makes it clear that the Plaintiff has established that the Plaintiff is entitled to the Judgment as prayed. The Suit is therefore decreed in terms of prayer clause (a), which reads thus :

"(a) that this Hon'ble Court be pleased to order and decree the Defendant to pay to the Plaintiff a sum of Rs.1,23,74,147.93 as per the Particulars of Claim annexed hereto and marked as Exhibit J together with interest on the principal sum of Rs.80,00,000/- at such rate as this Hon'ble Court may deem fit and proper from the date of the filing of the Suit viz 4th April, 2014 till payment and/or realization;"

3. The Defendant shall also pay costs of the Suit to the Plaintiff.
4. The above Summary Suit as well as Summons for Judgment accordingly stand disposed of.

(S.J.KATHAWALLA, J.)