

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

SUMMARY SUIT NO.720 OF 2014

Talsibhai R. Monpara of Mumbai,
Indian Inhabitant, residing at 901, Kamleshwar
Apartment - 2, 40, Tagore Road, Santacruz
(W), Mumbai - 400 054.

... Plaintiff

versus

1. M/s. Shubh Enterprise, a partnership firm
carrying on business at 312, Western
Edge-2, B Wing, Wester Express Highway
Behind Metro Hall, Borivali (E),
Mumbai - 400 066.
2. Uday Suresh Surve of Mumbai Indian
Inhabitant, carrying on business at 312,
Western Edge-2, B Wing, Wester Express Highway
Behind Metro Hall, Borivali (E),
Mumbai - 400 066.
3. Rajendra Kapurchand Shah of Mumbai
Indian Inhabitant, carrying on business
at J/101, Nisarg Building, Opp. Panchsheel
Height, Mahavir Nagar, Kandivali (W),
Mumbai - 400 067
4. Govindbhai T. Somani of Mumbai
Indian Inhabitant, carrying on business at
J/102, Nisarg Building, Opp. Panchsheel
Height, Mahavir Nagar, Kandivali (W),
Mumbai - 400 067.

... Defendants

Mr. Karl Shroff with Mr. Keenit Shah, Mr. Delaney Sylvesten i/by M/s. Dhru and
Co., for Plaintiff.

Mr. Shyam Mehta, Senior Advocate i/by Mr. Anil D'Souza, for Defendants.

CORAM: S.J. KATHAWALLA, J.

DATE: 7th MARCH, 2017

Oral Judgment :

1. The above Summary Suit is filed by the Plaintiff against the Defendants for an order and decree to jointly pay to the Plaintiff a sum of Rs.13,14,85,894/- with further compound interest on Rs.13,14,85,894/- @ 2% p.m. from 01-07-2014 till payment and/or realization.

2. After the Summons for Judgment was served on the Defendants, the Advocate for the Defendants filed their respective appearances. The Plaintiff therefore, took out Summons for Judgment No.106 of 2014 seeking decree as prayed. The Summons for Judgment No.106 of 2014 was disposed of by a detailed order dated 24-11-2015 passed by this Court (Coram : Smt. R.P.SondurBaldota, J.) wherein the Defendants are granted leave to defend the Suit on condition that they deposit the entire decretal amount within a period of 12 weeks from the date of the order. The Defendants have failed to deposit any amounts as directed by this Court. The Prothonotary and Senior Master has issued a non-deposit Certificate dated 01-04-2016, which is taken on record. The original documents relied upon by the Plaintiff are tendered in Court and taken on record. In view of clause (b) of sub-Rule 6 of Rule 3 of Order XXXVII of the Code of Civil Procedure, the Plaintiff is entitled to a Judgment forthwith. In view thereof, the above Summary Suit is decreed in terms of prayer clause (a), which is reproduced hereunder :

“(a) that the Defendants jointly and or severally be ordered and

decreed to pay to the Plaintiff a sum of Rs.13,14,85,894/- with further compound interest on Rs.13,14,85,894/- @ 2% per month from 1st July, 2014 till payment or realization;”

However, the interest payable by the Defendants from the date of filing of the suit until realization shall be 18% simple interest per annum. Defendants to also pay costs of the Suit to the Plaintiff

2. The Summary Suit is accordingly disposed off. Drawing up of decree and sealing thereof, is dispensed with. The Office shall return the original documents to the Advocate for the Plaintiff upon the Advocate for the Plaintiff handing over photostat copies of the said documents duly certified by him as true copies.

3. The above Suit is accordingly disposed off.

(S.J.KATHAWALLA, J.)