

F.M.A.T 438 of 2020

**Manoj Kumar Kathotia
Vs.
Mithu Nag nee Bal**

**Mr. Kollol Basu
Mr. Nilanjan Pal
Mr. Samik Sarkar For the Appellant.**

Re: CAN 1 of 2020

An affidavit of service is on record.

None appears for the respondent.

As the issue involved is very short, we are disposing of the appeal and the connected application, dispensing with all formalities.

We find no reason to interfere with the impugned judgement and order dated 23rd September, 2020.

It was made ex-parte at the ad interim stage, without notice to the defendant/respondent, on an application for injunction read with another one under Order 38, Rule 5 of the Code of Civil Procedure.

The suit is a simple money suit. The cause of action is non-payment of a loan advanced by the appellant/plaintiff to the respondent/defendant. The cheque by which the defendant/respondent attempted to pay the loan amount to the appellant/plaintiff was dishonoured with the remark 'funds insufficient'.

In those circumstances, we dispose of this appeal and the connected application (CAN 1 of 2020) by directing that the court below will hear out the said application, at the returnable date stage as well as on exchange of affidavits upon proper notice to the respondent.

(I.P. Mukerji, J.)

(Md. Nizamuddin, J.)

