

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

SUMMONS FOR JUDGMENT NO.1 OF 2019

IN

COMMERCIAL SUMMARY SUIT NO.1297 OF 2018

Surya Processed Food Private Limited Applicant/Plaintiff

V/s.

Harihara Mahapatra Defendant

Mr. Mahesh D. Tiwari for plaintiff.
None for defendant.

**CORAM : K.R.SHRIRAM, J.
DATED : 11th MARCH 2021**

P.C. :

1 Mr. Tiwari to a query raised by the Court candidly agreed that there is no written contract or any bill of exchange or hundi or promissory note. Mr. Tiwari states that though plaintiff will be able to prove that defendant has received the money from plaintiff which he has not repaid, this suit would not technically fall in the classes of suits provided under Order XXXVII Rule 1 (2) of the Code of Civil Procedure.

2 In the circumstances, defendant is granted leave to defend. However, this would not preclude plaintiff from taking out an application under Order XIII-A of the Code of Civil Procedure. I must hasten to add if such an application is taken out, the Court will decide the same in accordance with law and I have not expressed any views on the merits thereof.

3 Summons for judgment accordingly stands disposed.

(K.R. SHRIRAM, J.)