

COMMERCIAL SUMMARY SUIT NO. 21 OF 2021

... Plaintiff

... Defendants

None for the Defendants.

DATED : 27th April, 2022

P.C. :

1. The Suit seeks to recover a sum of Rs.1,20,83,673/- along with interest at the rate of 19.8% p.a. compounded on a quarterly basis. The claim is made on the basis of an agreement under which, money is advanced and agreed to be repaid.

2. Defendant Nos.2 and 3 are impleaded on the basis that they have issued some cheques. No decree can be passed for the suit claim against these defendants. The Defendant No.1 alone confirmed liability in writing vide Exhibits H and I. The closing balance is of 31.03.2016. Thereafter, it appears that the cheques have been issued on 19.03.2018 and 05.09.2018. These cheques are said to be issued towards the repayment of the loan. The Defendant No.1 is absent on call. Being a Summary Suit, appearance ought to have been entered within 10 days. The Registry has now confirmed that

pursuant to order dated 20.04.2022, they have taken search of the record and found that although Writ of Summons was served, no appearance has been entered. The Plaintiffs are, therefore, entitled to proceed ex-parte. Defendant No.1 being absent on call and on instructions of the plaintiff that he does not press the Suit against Defendant Nos.2 and 3, I am of the view that the Suit is liable to be decreed as against Defendant No.1 to the extent of an amount of Rs.79,45,657/- and simple interest at the rate of 12% p.a. Accordingly, the original documents are tendered and taken on file and I pass the following order:

- (i) Suit decreed against Defendant No.1 in the aforesaid amount of Rs.79,45,657/- with interest at the rate of 12% p.a. from 04.02.2021 being date of filing the Suit till payment or realisation.
- (ii) Suit against Defendant No.2 and 3 is dismissed.
- (iii) Refund, if any, as per Rules.
- (iv) Suit disposed in above terms.
- (v) Draft decree shall be lodged within eight weeks from today.

(A. K. MENON, J.)