

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

APPLN. FOR LEAVE TO APPEAL BY PVT. PARTY NO.210 OF 2019

**AHMEDNAGAR MIRCHI MERCHANT NAGRI SAHAKARI
PATSANSTHA LTD., THROUGH ITS MANAGER ANITA VIJAY PATIL
VERSUS
MANOJ SIMRATMAL BORA OWNER AND PROPRIETOR RAJLAXMI
TRADING COMPANY, AHMEDNAGAR**

Mr. L. B. Palod, Advocate for the appellant
Mr. N. S. Jaju, Advocate for respondent

CORAM : R. M. JOSHI, J.

DATE : 10th JULY, 2023

P.C. :-

1. Heard.

2. *Prima facie* perusal of the impugned judgment shows that there is finding recorded by the learned Trial Court that on 20/03/2012 there was outstanding amount of either Rs.3,36,643/- or 3,39,501/- payable by the accused to the complainant. The learned Trial Court has further held that amount of Rs.4,168/- which is attributable to the recovery proceedings of the said amount cannot be considered as the legally enforceable debt but in para 35 of the judgment it is specially held that the complainant may recover that amount from by any other mode. These findings are contradictory. Having regard to consideration of evidence on face of it, this is a fit case to hear appeal on merit.

3. Hence application is allowed. Appeal be registered.

(R. M. JOSHI, J.)

ssp