

**IN THE HIGH COURT AT CALCUTTA
ORIGINAL SIDE
COMMERCIAL DIVISION**

Present:

The Hon'ble Justice Krishna Rao

**C.S. (Com) No. 369 of 2024
(Old No. CS 77 of 2022)**

Dewesh Auto Creative Services Private Limited

Versus

Uttam Chatterjee

Mr. Rachit Lakhmani

Mr. Ovik Sengupta

Mr. Anil Choudhury

... For the plaintiff.

Hearing Concluded On : 18.08.2025

Judgment on : 12.09.2025

Krishna Rao, J.:

1. The present suit is filed by the plaintiff praying for a decree for a sum of Rs.2,28,36,597.98 along with interest at the rate of 30% per annum and interest pendente lite.

2. The plaintiff is a company incorporated under the Companies Act, 1956, and is engaged in various kinds of businesses.
3. The defendant carries on business under the name and style of “U.K. Traders”, as its sole proprietor and is engaged in the business of investing money in several incomplete real estate projects and lends money from people for such purposes.
4. In or around the year 2016, the defendant had visited the office of the plaintiff and approached the plaintiff to visit the office of the defendant to have a discussion regarding investment opportunities.
5. In the month of July, 2016, the plaintiff had visited the office of the defendant, wherein the defendant showed the plaintiff, the incomplete real estate projects where the defendant has been investing money and also told the plaintiff that considering the market conditions, investing in such incomplete real estate projects ensure double or more returns. The defendant also proposed to the plaintiff that if the plaintiff invests some money with the defendant, the defendant would assure that the plaintiff at least gets 30% per annum return on such money being invested.
6. The plaintiff states that lured by such offer of the defendant, the plaintiff agreed to pay the defendant a sum of Rs.1,24,03,325/- and had paid such sum by way of RTGS transfer or cheques from time to time from 11th July, 2016 till 4th February, 2019 which the defendant

was supposed to pay back by 30th November, 2019 along with interest at the rate of 30% per annum.

- 7.** The defendant had used the money given by the plaintiff to purchase or create right, title and interest in various immovable properties by executing registered conveyance deeds or agreements for sale.
- 8.** The plaintiff submits that after availing money from the plaintiff, the defendant enjoyed and used the said money to acquire properties and having also benefited therefrom.
- 9.** The defendant out of the total amount of Rs. 1,24,03,325/-, had returned an amount of Rs.71,40,600/- on 7th January, 2019, leaving the balance sum of Rs.52,62,725/- due and payable by the defendant to the plaintiff and the interest accrued thereon.
- 10.** On 31st December, 2019, a partnership company being Dewesh Motors, in which the plaintiff is a partner, had lodged a formal complaint before the Behala Police Station regarding loss of several Cheque Books of Dewesh Motors. On 2nd March, 2020, the plaintiff received a notice from the defendant claiming that one cheque being numbered 466927 amounting to Rs.49,60,000/- has been dishonoured, which has already been reported lost to the New Alipore Police Station by the letter of complaint dated 31st December, 2019.
- 11.** The plaintiff by a notice dated 20th December, 2021, had called upon the defendant to pay its outstanding dues to the tune of

Rs.2,28,36,597.98, which was duly received by the defendant on 27th December, 2021.

- 12.** The defendant in response to the notice dated 20th December, 2021, had sent a letter through its Advocate on 21st January, 2022 denying the claim of the plaintiff and has made a false story stating that the defendant had supplied shellac to the plaintiff for which the defendant is entitled to a certain amount from the plaintiff. The plaintiff says that shellac is natural resin which is used as a brush-on colorant, food glaze and wood finish and the plaintiff has no use for the same and the plaintiff had never received any goods from the defendant.
- 13.** The plaintiff came to know from reliable sources that the defendant is cancelling the agreement for sale in respect of the properties in which the defendant had invested the money of the plaintiff and is taking back the earnest money in respect of such properties, without informing the plaintiff. After being searched by the plaintiff, the plaintiff came to know that in respect of seven of the properties in which the defendant had invested the money of the plaintiff, the defendant had cancelled such agreement for sale and such properties have already been sold in favour of other parties and the defendant has neither informed the plaintiff nor has paid any amount to the plaintiff out of such sale.
- 14.** The conduct of the defendant clearly shows that the defendant is siphoning off money from the investments made by the plaintiff and

given such facts and circumstances, the plaintiff had lodged a criminal complaint before the Officer-in-charge, Behala Police Station.

15. The plaintiff in order to prove its case has examined one witness, namely, Mr. Anil Agarwal, who is one of the Directors of the plaintiff company. During his evidence, the plaintiff has produced eight (8) documents which were marked as “**Exhibit – A to Exhibit – F**” and “**Exhibit – X and Exhibit – X1**” which are as follows:

Exhibit – A (collectively): Copies of bank statements downloaded from the official website of United Bank of India, which shows payments made by the plaintiff to the defendant.

Exhibit – B: Copy of the General Diary lodged by the plaintiff at Behala Police Station, dated 31st December, 2019, reporting the cheques lost from the plaintiff’s office.

Exhibit – C (collectively): Copy of the notice dated 20th December, 2021, issued by the plaintiff to Uttam Chatterjee requesting payment of money due along with its postal receipts.

Exhibit – D: Original copy of the letter dated 21st January, 2022, sent by the Advocate of Uttam Chatterjee, in reply to the plaintiff’s letter dated 20th December, 2021.

Exhibit – E: Copy of the ledger account of the plaintiff company showing payments made by the plaintiff to the defendant.

Exhibit – F: Affidavit of the plaintiff for electronic evidence under section 63 of Bharatiya Sakshya Adhiniyam, 2023, corresponding to Section 65B of Evidence Act, 1872, prepared by the Advocate of the plaintiff.

Exhibit – X (for identification): Copies of the agreements for sale entered by Uttam Chatterjee with various sellers, downloaded from the official

website of Directorate of Registration Revenue, Government of West Bengal.

Exhibit – X1 (for identification): *Copies of two agreements for cancellation of agreement for sale dated 16th August, 2021, downloaded by the plaintiff from its Official Website of Directorate of Registration Revenue, Government of West Bengal.*

16. To prove that the plaintiff has paid an amount of Rs. 1,24,03,325/- to the defendant, the plaintiff has exhibited documents being **Exhibit “A” (Collectively)** which established that from 11th July, 2016 till 4th February, 2019, the plaintiff has transferred amounts in the account of the defendant from time to time.
17. The plaintiff in the plaint as well as in the affidavit of evidence admitted that out of the total amount of Rs. 1,24,03,325/-, the defendant has paid Rs. 71,40,600/- leaving the balance amount of Rs. 52,62,725/- along with interest at the rate of 30% per annum.
18. As the defendant failed to pay the balance amount of Rs. 52,62,725/- along with interest at the rate of 30% per annum, the plaintiff had sent a notice to the defendant by postal services on 20th December, 2021 which were duly received by the defendant. The plaintiff has proved the said notice being **Exhibit “C” (Collectively)**. On receipt of the notice of the plaintiff, the defendant had sent a reply dated 21st January, 2022 by denying the claim of the plaintiff, the reply of the defendant is marked as **Exhibit “D”**.

- 19.** The plaintiff to prove that the plaintiff has made payment to the defendant and the defendant has only returned an amount of Rs. 71,40,600/- and the defendant has not paid any interest, the plaintiff has exhibited the ledger account of the plaintiff and the same is marked as **Exhibit "E"**. From the ledger account, it is proved that the plaintiff has paid the total amount of Rs. 1,24,03,325/- out of which the defendant has only paid an amount of Rs. 71,40,600/- and has not paid the balance amount of Rs.52,62,725/- and interest accrued therein.
- 20.** This Court considered the case made out by the plaintiff in the plaint, affidavit of evidence of the plaintiff's witness and the documents which were marked as exhibits during the evidence of the plaintiff's witness. This Court finds that the plaintiff has paid total amount of Rs. 1,24,03,325/- in between 11th July, 2016 to 4th February, 2019 out of which the defendant has only returned an amount of Rs. 71,40,600/- leaving the balance amount of Rs. 52,62,725/-. This Court also finds that the defendant has not paid any interest to the amount received from the plaintiff.
- 21.** Though the plaintiff has claimed interest at the rate of 30% per annum but this Court did not find any evidence that there is any agreement between the parties for payment of interest at the rate of 30% per annum. As no interest is agreed between the parties but the defendant has invested the amount paid by the plaintiff for the purpose of its

business thus the plaintiff is entitled to get interest at the rate of 15% per annum.

22. After filing of suit, the plaintiff has taken appropriate steps for service of summons upon the defendant through the Sheriff of this Court as well as through postal services but writ of summons could not be served upon the defendant with the reasons that the defendant was not found at the address and “left without information”. As per leave granted by this Court, the plaintiff has published the notice of the suit for the information of the defendant but inspite of publication of notice, the defendant failed to appear in the suit and accordingly, the suit is placed in the list of “Undefended Suit”.

23. Considering the above, this Court finds that the plaintiff is entitled to get principal amount of Rs. 52,62,725/- along with interest at the rate of 15% per annum from 8th January, 2019 till the realization of the total amount. The plaintiff is also entitled to get interest at the rate of 15% per annum in the following manner:

- (i) 15% per annum on Rs. 1,34,000/- from 11th July, 2016 till 7th January, 2019,
- (ii) 15% per annum on Rs. 1,26,200/- from 26th July, 2016 till 7th January, 2019,
- (iii) 15% per annum on 1,40,000/- from 6th August, 2016 till 7th January, 2019,

- (iv) 15% per annum on Rs. 1,54,400/- from 16th August, 2016 till 7th January, 2019,
- (v) 15% per annum on Rs. 1,31,200/- from 25th August, 2016 till 7th January, 2019,
- (vi) 15% per annum on Rs. 1,34,000/- from 3rd September, 2016 till 7th January, 2019,
- (vii) 15% per annum on Rs. 3,49,700/- from 20th September, 2016 till 7th January, 2019,
- (viii) 15% per annum on Rs. 1,28,350/- from 26th September, 2016 till 7th January, 2019,
- (ix) 15% per annum on Rs. 1,47,000/- from 4th October, 2016 till 7th January, 2019,
- (x) 15% per annum on Rs. 3,60,900/- from 18th October, 2016 till 7th January, 2019,
- (xi) 15% per annum on Rs. 1,33,450/- from 26th October, 2016 till 7th January, 2019,
- (xii) 15% per annum on Rs. 4,14,600/- from 7th November, 2016 till 7th January, 2019,
- (xiii) 15% per annum on Rs. 3,73,200/- from 18th November, 2016 till 7th January, 2019,
- (xiv) 15% per annum on Rs. 1,55,000/- from 5th January, 2017 till 7th January, 2019,
- (xv) 15% per annum on Rs. 2,48,300/- from 9th January, 2017 till 7th January, 2019,

- (xvi) 15% per annum on Rs. 1,59,600/- from 6th February, 2017 till 7th January, 2019,
- (xvii) 15% per annum on Rs. 1,80,800/- from 20th February, 2017 till 7th January, 2019,
- (xviii) 15% per annum on Rs. 1,35,800/- from 27th February, 2017 till 7th January, 2019,
- (xix) 15% per annum on Rs. 1,64,200/- from 3rd March, 2017 till 7th January, 2019,
- (xx) 15% per annum on Rs. 2,81,000/- from 9th March, 2017 till 7th January, 2019,
- (xxi) 15% per annum on Rs. 1,43,000/- from 28th March, 2017 till 7th January, 2019,
- (xxii) 15% per annum on Rs. 3,91,800/- from 11th April, 2017 till 7th January, 2019,
- (xxiii) interest @ 15% per annum on Rs. 1,66,800/- from 11th April, 2017 till 7th January, 2019,
- (xxiv) 15% per annum on Rs. 2,74,000/- from 18th April, 2017 till 7th January, 2019,
- (xxv) 15% per annum on Rs. 3,17,900/- from 3rd May, 2017 till 7th January, 2019,
- (xxvi) 15% per annum on Rs. 10,00,000/- from 4th May, 2017 till 7th January, 2019,
- (xxvii) 15% per annum on Rs. 5,25,925/- from 26th May, 2017 till 7th January, 2019,

- (xxviii) 15% per annum on Rs. 4,32,200/- from 12th July, 2017
till 7th January, 2019,
- (xxix) 15% per annum on Rs. 4,00,000/- from 5th March, 2018
till 7th January, 2019,
- (xxx) 15% per annum on Rs. 6,00,000/- from 16th March, 2018 till 7th
January, 2019,
- (xxxi) 15% per annum on Rs. 5,00,000/- from 17th March, 2018
till 7th January, 2019,
- (xxxii) 15% per annum on Rs. 4,50,000/- from 19th March, 2018
till 7th January, 2019,
- (xxxiii) 15% per annum on Rs. 5,00,000/- from 22nd March, 2018
till 7th January, 2019,
- (xxxiv) 15% per annum on Rs. 4,00,000/- from 3rd December,
2018 till 7th January, 2019,
- (xxxv) 15% per annum on Rs. 6,00,000/- from 7th December,
2018 till 7th January, 2019,
- (xxxvi) 15% per annum on Rs. 6,50,000/- from 17th December,
2018 till 7th January, 2019,
- (xxxvii) 15% per annum on Rs. 5,00,000/- from 10th January,
2019 till realisation,
- (xxxviii) 15% per annum on Rs. 5,00,000/- from 4th February,
2019 till realisation.

24. C.S. (Com) No. 369 of 2024 (Old C.S. No. 77 of 2022) is disposed of.

Decree be drawn accordingly.

(Krishna Rao, J.)