



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

**FIRST APPEAL NO. 728 OF 2025**

Anand Harichandra Raul.

...Appellant.

**Versus**

Anant Shankar Vichare.

...Respondent.

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*Mr. Harish R. Pawar and Shivam S. Gawde for the Appellant.*  
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**Coram : Sharmila U. Deshmukh, J.**

**Date : April 7, 2025.**

**P. C. :**

1. First Appeal is preferred against the judgment and order dated 18<sup>th</sup> September 2024 passed by the City Civil Court dismissing the suit on the ground of limitation.
2. From the impugned judgment, the case of Plaintiff appears to be that the Plaintiff and Defendant were residing in the same locality and in the month of March 2015, the Defendant approached the Plaintiff requesting for financial assistance. The Plaintiff advanced the Defendant a total amount of Rs.8,11,000/- between the period 11<sup>th</sup> April 2015 to 14<sup>th</sup> December 2015. Despite repeated demands by Plaintiff, the Defendant did not repay the amount. It was further pleaded that on 3<sup>rd</sup> March 2020, part payment of Rs.2 lakh was made by NEFT however balance amount of Rs.6,11,000/- was not paid and the

suit came to be filed.

3. Though served with the writ of summons, the Defendant did not appear and therefore the suit proceeded *ex parte* against him pursuant to the order dated 22<sup>nd</sup> February 2023.

4. The Plaintiff adduced evidence and filed original bank passbook, copy of the notices, postal receipts and acknowledgment card.

5. The Trial Court framed the necessary issues including the issue of limitation.

6. The Trial Court considered that amounts were advanced between the period 23<sup>rd</sup> March 2015 to 14<sup>th</sup> December 2015 and therefore 3 years period would expire in December 2018, however, the suit is filed on 4<sup>th</sup> November 2022. The Trial Court considered the provisions of Sections 18 and 19 of the Limitation Act, 1963. It further held that though the Defendant appears to have made some payment, there is nothing on record to show that the same was made towards the repayment of loan advanced by the Plaintiff and the suit not being within limitation, came to be dismissed.

7. Learned Counsel appearing for the Appellant would submit that in the month of March 2020, the Defendant had made part payment which would extend the period of limitation. He would further submit that no evidence was led by the Defendant and thus no defence of limitation was raised and despite thereof suit came to be dismissed.

- 8.** I have considered the submissions and perused the record.
- 9.** The pleadings are clear and specific that a sum of about Rs.8,00,000/- was advanced by the plaintiff to the defendant as friendly loan between 23<sup>rd</sup> March 2015 to 14<sup>th</sup> December 2015. As per Article 19 of Schedule-I to the Limitation Act, 1963, the limitation for filing suit for money payable for money lent is 3 years when the loan is made. Although Defendant had not appeared, the provisions of Section 3 of Limitation Act, 1963 provide that every suit shall be dismissed although limitation has not been set up as a defence. Therefore, non appearance of the Defendant is immaterial and the trial Court has rightly considered the issue of limitation.
- 10.** The provisions of Sections 18 of Limitation Act, 1963 consider the effect of an acknowledgment in writing and provide that the same will be applicable only in event the acknowledgment of liability is before the expiry of period of limitation. Similarly, Section 19 of the Limitation Act governs the effect of payment on account of debt and provides that where payment on account of a debt is made before the expiration of the prescribed period by the person liable to pay the debt, a fresh period of limitation shall be computed from the time when the payment was made.
- 11.** In the present case, admittedly, amounts were advanced in 2015 and therefore the period of limitation would expire in 2018. The

payment of Rs.2 lakh made in the year 2020 does not extend the period of limitation in view of Sections 18 and 19 of Limitation Act, 1963.

**12.** Resultantly, the Trial Court has rightly considered the said provisions and dismissed the suit. There being no error, First Appeal fails and is hereby dismissed.

**[Sharmila U. Deshmukh, J.]**