IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 89 OF 2026

M/s. Motel Lov N Kush and ors. ...Applicants

Versus

Dyneshwar Ramchandra Boddu and anr. ...Respondents

Ms. Rachana Harpale, a/w Santosh Kurade and Anjali Shinde, i/b Nitin Desehpande, for the Applicants.

Dr. Ramdas Sabban, a/w Shrikant Kompelli and rohit C., for Respondent Nos.1 and 2.

CORAM: N. J. JAMADAR, J.

DATED: 10th FEBRUARY, 2026

Order:-

1. Heard the learned Counsel for the parties.

2. This revision application is directed against an order dated 15th October, 2025, whereby the application preferred by the applicants for rejection of the plaint in Summary Suit No.66 of 2018, came to be rejected.

3. The respondents have instituted a suit for recovery of a sum of Rs.55,00,000/- alongwith interest thereon under the provisions of Order XXXVII of the Code of Civil Procedure, 1908 ("the Code"). The respondents asserted that defendant Nos.1 and 2 had availed a hand loan of Rs.45,30,000/- from the plaintiffs. Towards repayment of the said amount, alongwith the expenses incurred by the plaintiffs to avail the said amount by way of loan from the Banks, defendant Nos.2 and 3 had executed a Memorandum of Understanding ("MoU") and thereby acknowledged the liability to pay a sum of Rs.55,00,000/-. Defendant Nos.2 and 3 had drawn multiple cheques which could not be honored on presentment. Eventually, the defendants had drawn a cheque for a sum of Rs.55,00,000/- payable on 28th November, 2017. The said cheque was also returned unencahsed on presentment. It was, *inter alia,* asserted that, the said cheque was drawn by defendant Nos.2 and 3, on an account maintained in the name of defendant No.1 Firm, of which defendant Nos.2 and 3 are partners. Hence, the summary suit.

4. Defendant Nos.2 and 3 preferred an application for rejection of the plaint contending, *inter alia,* that defendant No.1 partnership firm was not a party to the MoU. Thus, there was no privity of contract between the plaintiffs and defendant No.1 Firm. Therefore, the summary suit was not maintainable.

5. By the impugned order, the learned Civil Judge rejected the application for rejection of the plaint observing, *inter alia,* that though defendant No.1 firm was not a party to the MoU yet defendant Nos.2 and 3 were the parties to the said MoU and the subject cheque was drawn by defendant Nos.2 and 3 on an account maintained in the name of defendant No.1 Firm in the capacity of the partners of defendant No.1. Thus, the question as to whether defendant No.1 Firm can be fastened with the liability, would be a matter for adjudication at the trial and the plaint cannot be rejected on that count.

6. Ms. Harpale, the learned Counsel for the applicants, would urge that from the own showing of the plaintiffs, the transaction was primarily between the plaintiffs and defendant No.2. The purported MoU, which is the basis of the suit, was executed by defendant Nos.2 and 3. There was no reference whatsoever to defendant No.1 Firm. Therefore, by no stretch of imagination, the summary suit could have been instituted against defendant No.1. Resultantly, the learned Civil Judge committed an error in rejecting the application for the rejection of the plaint.

7. Under the provisions of Order XXXVII Rule 2(1)(a) of the Code a summary suit is maintainable upon bills of exchange, hundies and promissory notes. Under Clause (b), where the plaintiff seeks only to recover a debt or liquidated demand in money payable by the defendant, with or without interest, arising on a written contract also, a summary suit is tenable. In the case at hand, undoubtedly, the MoU seems to have been executed between the plaintiffs and defendant Nos.2 and 3. *Prima facie,* defendant No.1 is not a party to the said MoU. Nonetheless, it is pertinent to note that, the cause of action for the suit is also the dishonour of the cheque drawn on an account maintained in the name of defendant No.1. A summary suit is, thus, maintainable under Order XXXVII Rule (1)(2)(a) of the Code, *de hors* the MoU.

8. In the plaint, there are adequate averments to show that, the summary suit is instituted on the dishonored cheque. It is trite, at the stage of consideration of an application for rejection of the plaint only the averments in the plaint alongwith the documents annexed thereto are required to be examined. Having so examined, the Court finds that there are sufficient averments in the plaint to bring the case of the plaintiffs within the ambit of Order XXXVII Rule (1)(2)(a) of the Code. Whether the plaintiffs indeed succeed in substantiating their claim on the basis of the dishonored cheque, is a matter for adjudication at the trial.

9. In these circumstances, no case for rejection of the plaint is made out. The learned Civil Judge, thus, committed no error in rejecting the application for rejection of the plaint.

10. The Civil Revision Application, thus, stands dismissed.

[N. J. JAMADAR, J.]