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|-------------------------------------------------------------------------------------------------------|---------------|---|--------------------|
| MHCC010083172023<br> | Presented on  | : | 03.08.2023         |
|                                                                                                       | Registered on | : | 30.09.2023         |
|                                                                                                       | Decided on    | : | 09.02.2026         |
|                                                                                                       | Duration      | : | 02 Y : 06 M : 06 D |
|                                                                                                       | Exhibit       | : |                    |

**IN THE BOMBAY CITY CIVIL COURT AT MAZGAON**

**SUMMARY SUIT NO.906 OF 2023**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                     |
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| <b>Amol Phansekar,</b><br>Age: 32, Adult, Occ. : Software Engineer,<br>Having address at D-702, Shubh Sarita CHS,<br>Shree Krishna Nagar, Borivali (East),<br>Mumbai – 400 066.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <b>...Plaintiff</b> |
| <b>VERSUS</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                     |
| <b>1. Nirvana Construction LLP</b><br>The Partnership Firm,<br>Having its address at 1205, Universal Majestic,<br>12 <sup>th</sup> Floor, Opp. Ghatkopar-Mankhurd Link Road,<br>Chembur, Mumbai – 400 043.<br><br><b>2. Vardhaman Ganpatlal Singhvi,</b><br>Age : Not known, Occ. : Business,<br>Partner of Nirvana Construction LLP,<br>Having its address at 1205, Universal Majestic,<br>12 <sup>th</sup> Floor, Opp. Ghatkopar-Mankhurd Link Road,<br>Chembur, Mumbai – 400 043.<br><br><b>3. Manisha Navin Thirani</b><br>Age : Not known, Occ. : Business,<br>Partner of Nirvana Construction LLP,<br>Having its address at 1205, Universal Majestic,<br>12 <sup>th</sup> Floor, Opp. Ghatkopar-Mankhurd Link Road,<br>Chembur, Mumbai – 400 043. |                     |

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| <p><b>4. Dharmendra Manoharlal Jain,</b><br/>Age : Not known, Occ. : Business,<br/>Partner of Nirvana Construction LLP,<br/>Having its address at 1205, Universal Majestic,<br/>12<sup>th</sup> Floor, Opp. Ghatkopar-Mankhurd Link Road,<br/>Chembur, Mumbai – 400 043.</p> <p><b>5. Mahendra Vijaysingh Dulawat,</b><br/>Age : Not known, Occ. : Business,<br/>Partner of Nirvana Construction LLP,<br/>Having its address at 1205, Universal Majestic,<br/>12<sup>th</sup> Floor, Opp. Ghatkopar-Mankhurd Link Road,<br/>Chembur, Mumbai – 400 043.</p> | <p><b>...Defendants.</b></p> |
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|----------------------------|---|----------------|
| <b><u>Appearance :</u></b> |   |                |
| Adv. Om Gandhi             | : | for Plaintiff  |
| Adv. Duhita Garate         | : | for Defendants |

|                |                                                      |
|----------------|------------------------------------------------------|
| <b>CORAM :</b> | <b>HIS HONOUR JUDGE<br/>N. B. LAVTE, (C.R.No.83)</b> |
| <b>DATE :</b>  | <b>9<sup>th</sup> February, 2026</b>                 |

### **J U D G M E N T** **(Ex-parte)**

The Summary Suit is filed under order Order XXXVII, Rule.2 of C.P.C for recovery of an amount of Rs.35,00,000/-.

#### **2. The brief facts necessary to decide the suit is that:**

The defendants are builders and developers carrying on business under the name of Nirvana Construction LLP, a partnership firm of which defendant Nos.2 to 5 are the partners. The plaintiff booked 1 BHK flat bearing flat No.804 admeasuring 40.13 sq. mtrs in project Nirvana Heights. The total consideration was Rs.75,00,000/-. On 14.05.2021, defendant issued allotment letter. On the basis of allotment letter, plaintiff paid Rs.65,00,00/- by 3 cheques details of which are given in para 4 (a) to (c) of the plaint. The defendants

promised to register agreement for sale and also promised to complete the project within 2 years. But, no any construction commenced.

2. It is his further case that, defendants showed inability to complete the project and agreed to refund the amount of Rs.65,00,000/- plus interest of Rs.5,00,000/- as compensation and issued letter dated 27.08.2022 to that effect. Out of the said amount, Rs.35,00,000/- was refunded by defendants leaving balance amount of Rs.35,00,000/-, which they failed. On 01.07.2023 legal notice was issued, however, inspite of it, no amount was paid. Hence, suit.

3. The writ of summons was duly served and defendants appeared. They filed NM No.4759/2023 for condoning delay of 10 days in filing Vakalatnama. It was allowed on 28.11.2025. On same day, plaintiff filed draft Summons for Judgment which was later on registered as S.J. No.311/2025. The defendants were served with the SJ on 28.11.2025, however, they failed to file reply/leave to defend within 10 days. Hence, by an order dated 12.01.2026, the suit was directed to proceed without reply. On 04.02.2026 Adv. Om Gandhi for plaintiff submitted that as there is no leave to defend filed, hence, prayed for passing judgment as per Order XXXVII Rule.3 (6) (a) of CPC.

4. Heard Adv. Gandhi for plaintiff. Gone through the pleadings and the documents filed on record. Adv. Gandhi submitted that by letter dated 27.08.2022 addressed to plaintiff, defendants admitted and acknowledged their liability and refunded Rs.35,00,000/-. However, the remaining Rs.35,00,000/- was not refunded. Perused the contents of the supporting affidavit filed alongwith the Summons for Judgment. As discussed above, by an order dated 12.01.2026 the SJ was directed to proceed without reply/leave to defend.

5. As per Order XXXVII R.3 (6) (a) of C.P.C if the defendant fails to apply for leave to defend or if such application made is refused, then the plaintiff shall be entitled for the judgment forthwith. As discussed above, the defendants failed to apply for leave to defend within 10 days. The plaintiff has filed on record the copy of allotment letter, copy of agreement and the letter of cancellation/acknowledging the liability of Rs.70,00,000/-. The plaintiff's own pleadings reveals Rs.35,00,000/- is received by him. Hence, an amount of Rs.35,00,000/- is outstanding which defendants failed inspite of legal notice dated 01.07.2023.

6. Therefore, in view of the clear mandate of Order XXXVII R.3 (6) (a) of C.P.C, plaintiff is entitled to recover Rs.35,00,000/- with 12% p.a from the date of filing of the suit till realization of the amount from defendants. In the result, I proceed to pass following order.

**ORDER**

|    |                                                                                                                                                                                                   |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | The Summary Suit No.906 of 2023 is decreed with costs.                                                                                                                                            |
| 2. | The defendants are jointly and severally directed to pay to plaintiff an amount of Rs.35,00,000/- (Rs. Thirty Five Lakhs only) with 12% p.a from the date of filing of the suit till realization. |
| 3. | The SJ No.311 of 2025 is disposed of accordingly.                                                                                                                                                 |
| 4. | The Court fees be refunded as per rules.                                                                                                                                                          |
| 5. | The decree be drawn up accordingly.                                                                                                                                                               |
| 6. | The R & P be sent to record department.                                                                                                                                                           |

**Dt.:09.02.2026.**

( N. B. Lavte )  
Judge, (C.R.No.83)  
City Civil Court, Mazgaon,  
MUMBAI

Dictated on : 09.02.2026  
Transcribed on : 10.02.2026  
checked on : 10.02.2026  
Signed on : 10.02.2026.

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|-------------------------------------------------------------------------------|------------------------------------------------|
| “CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER” |                                                |
| 10.02.2026 at 5.45 p.m.<br>UPLOAD DATE AND TIME                               | (Mrs. Manisha Srinath)<br>NAME OF STENOGRAPHER |

|                                         |                                               |
|-----------------------------------------|-----------------------------------------------|
| Name of the Judge                       | H.H.J.Shri. N. B. Lavte<br>(COURT ROOM NO.83) |
| Date of pronouncement of judgment/order | 09.02.2026                                    |
| Judgment/order signed by P.O. on        | 10.02.2026                                    |
| Judgment/order uploaded on              | 10.02.2026                                    |