

09.01.2025

Present : Sh. Sahil Jain, Ld. counsel for the plaintiff through VC.

The current suit has been filed under Order XXXVII of the Civil Procedure Code (CPC). Upon reviewing the suit, it is evident that it does not fall within the purview of Order XXXVII, as there is no written agreement regarding the loan payment in this case. Rule 1 of Order XXXVII of CPC is pertinent here and is reproduced below:

“1. Courts and classes of suits to which the Order is to apply.—(1) This Order shall apply to the following Courts, namely:—

- (a) High Courts, City Civil Courts, and Courts of Small Causes;
and
- (b) other Courts:

Provided that in respect of the Courts referred to in clause (b), the High Court may, by notification in the Official Gazette, restrict the operation of this Order only to such categories of suits as it deems proper, and may also, from time to time, as the circumstances of the case may require, by subsequent notification in the Official Gazette, further restrict, enlarge or vary the categories of suits to be brought under the operation of this Order as it deems proper.

(2) Subject to the provisions of sub-rule (1), the Order applies to the following classes of suits, namely:—

- (a) suits upon bills of exchange, hundies, and promissory notes;
- (b) suits in which the plaintiff seeks only to recover a debt or liquidated demand in money payable by the defendant, with or without interest, arising,—
 - (i) on a written contract; or
 - (ii) on an enactment, where the sum sought to be recovered is a fixed sum of money or in the nature of a debt other than a penalty; or
 - (iii) on a guarantee, where the claim against the principal is in respect of a debt or liquidated demand only.
 - (iv) Suit for recovery of receivables instituted by any assignee of a receivable.”

The learned counsel for the plaintiff referenced a decision from the Hon'ble Delhi High Court in ***Surender Kumar Vs. Manoj Kumar*** (decided on 15.12.2020, C.R.P. 57/2020 & CM APPL. 20305/2020). The cited decision does not apply to facts of this case, particularly as there is no receipt involved in this matter.

In light of this discussion, the present suit is converted into an ordinary suit.

Summons for settlement of issues be issued to the defendant through all permissible modes upon filing of process fee/registered cover/speed post.

Put up on **15.02.2025**.

(Vikas Garg)
DJ-05/East/KKD
Delhi/09.01.2025