13.07.2026

Present: Sh. Ashish, Ld. counsel for the plaintiff.
Plaintiff joined through VC.
None for the defendant.

Put up for order at 04:00 pm.

(Manoj Kumar-II)
District Judge-01
South West, Dwarka Courts
13.07.2026

At 04:00 pm.

Present: None.

Despite repeated calls since morning, no one appeared on behalf of defendant. Earlier costs of Rs.5,000/- not paid by the defendant. Moreover, despite affording several opportunities to the defendant, he failed to argue on the leave to defend application. So, arguments on behalf of the plaintiff heard on the LDOH.

By this order, this Court shall decide the leave to defend application of the defendant for grant of leave to contest the suit.

Brief facts of the case are that in the year 2024, the defendant informed the plaintiff regarding an urgent medical need in his family and requested the plaintiff for a friendly loan of Rs.6,00,000/- and plaintiff gave the said friendly loan to the defendant on 02.04.2024. The defendant in discharge of his liability, issued a cheque bearing No. 365880 dated 22.01.2025 for an amount of Rs.6,00,000/- drawn on Axis Bank, Asaf Ali Road, New Delhi and when plaintiff presented the cheque for its encashment with his bank i.e., Punjab

Contd….2/-

National Bank, on 24.01.2025, the said cheque was dishonoured with the remarks 'Fund Insufficient'. Thus, defendant defaulted in payment of plaintiff dues on several occasions and have been stalling his legal obligation. Plaintiff issued legal notice to the defendant.

Defendant in his leave to defend application contended suit of plaintiff is based on totally false and concocted facts. Defendant vehemently denied the averments mentioned in the plaint and stated that despite the admitted fact that loan extended by the plaintiff to the defendant was a single, consolidated amount of Rs.6 lacs only, the plaintiff has maliciously and vexatiously instituted three separate criminal/civil proceedings against the defendant for the aggregate amount of Rs.6 lacs and these proceedings relate to the same transaction, the same loan and the same security cheques. It is stated that cheque(s) were for security purpose only and not as instrument of payment against any legitimate dues.

Reply to the application for grant of leave to defend was filed by the plaintiff wherein he reiterated the averments made in the plaint.

Heard. Record is perused.

The position in law on the issue of leave to defend application has been explained by Hon'ble Supreme Court in "Santosh Kumar Vs. Mool Singh" (1958) SCR 1211, Milkhiram (India) Private Ltd. vs. Chaman Lal Bros. AIR 1965 SC, 1698 and Michalec Eng. & Mfg. vs. Bank Equipment Corporation AIR 1977 SC 577. The propositions laid down in these decisions may be summed up as follows:-

(a) If the defendant satisfies the Court that he has a good defence to the claim on merits, the defendant is entitled to unconditional leave to defend.
(b) If the defendant raises a triable issue indicating that he has a fair or bona fide or reasonable defence, although not a possibly good defence, the defendant is entitled to unconditional leave to defend.

Contd….3/-

(c) If the defendant discloses such facts as may be deemed sufficient to entitle him to defend, that is, if the affidavit disclosed that at the trial he may be able to establish a defence to the plaintiff claim, the court may impose conditions at the time of granting leave to defend- the conditions being as to time of trial or mode of trial but not as to payment into Court or furnishing security.
(d) If the defendant has no defence, or if the defence is sham or illusory or practically moonshine, the defendant is not entitled to leave defend. (e) If the defendant has no defence or the defence is illusory or sham or practically moonshine, the Court may show mercy to the defendant by enabling him to try to prove a defence but at the same time protect the plaintiff imposing the condition that the amount claimed should be paid into Court or otherwise secured.

Thus, in the light of settled law, it is to be seen whether defendant has raised substantial defence or not.

Plaintiff in his plaint specifically contended that he has given a friendly loan of Rs.6 lacs on 02.04.2024 vide RTGS having UTR no.**PUNDR5202404216511393.** He further contended that in discharge of his liability, defendant issued a cheque bearing no.365880 dated 22.01.2025 for a sum of Rs.6 lacs drawn on Axis Bank, Asaf Ali Road, New Delhi. He specifically contended that cheque when presented to the bank got dishonoured on 24.01.2025. It is further contended that legal notice was issued to the defendant in that regard.

Defendant in his leave to defend application admitted the loan of Rs.6 lacs. He also admitted issuance of the cheque, however, he contended that cheque was issued for security purpose only and not as a instrument of payment against any legitimate dues. Moreover, he contended that plaintiff filed three cases pertaining to the same transaction, same loan and same security cheques.

Considering that cheque i.e. cheque bearing no.365880 dated 22.01.2025 for a sum of Rs.6 lacs drawn on Axis Bank, Asaf Ali Road, New Delhi was issued issued by the defendant in favour of the plaintiff, therefore, two presumptions under Section 118 and 139 of Negotiable Instruments Act are raised in favour of the plaintiff.

Contd...4/-

As per Section 118 of Negotiable Instrument Act, there is a legal presumption that every Negotiable Instrument was made or drawn for a valid lawful consideration. It is also to be presumed that the instrument bearing a date was made or drawn on that specific day. The presumption is one of law and thereunder a Court shall presume inter alia that the negotiable instrument or the endorsement was made or endorsed for consideration.

In view of the existence of the cheque, a presumption under Section 118 of the Negotiable Instruments Act with regard to the consideration and under Section 139 of the Negotiable Instrument Act regarding issuance of the same in discharge of the debt and other liability is raised accordingly.

Defendant has not filed any document/material to show that cheque was issued only as a security. Moreover, filing of complaint under section 138 N.I. Act qua dishonour of cheque, does not bar the plaintiff from recovery of his amount by way of filing civil suit. Plaintiff rightly relied on the decision of Hon'ble High Court of Delhi in "Smt. Rama Oberoi Vs. State of NCT Delhi, CRL MC 6228/2025.

Thus, in view of the above stated reasons, I am of the considered view that defendant failed to raise substantial or reasonable defence against the claim of the plaintiff. Defendant has not raised any genuine triable issue. The defence raised by the defendant is frivolous or vexatious. Hence, defendant is not entitled to defend and contest the suit. So, application of the defendant for grant of leave to defend is meritless and same is dismissed.

Thus, court is of the considered opinion that the plaintiff has successfully proved its case and is entitled to decree. As far as the interest is concerned, the court is of the considered opinion that ends of justice shall meet by awarding simple interest at the rate 9% per annum to the plaintiff from the date of filing of the suit till the realization of the amount.

Contd….5/-

In view of the above said discussion, the present suit is decreed under Order XXXVII CPC in favour of the plaintiff and against the defendant for a sum of Rs.6,00,000/- along-with pendentelite and future interest @ 9% per annum from the date of the filing of the suit i.e. 22.08.2025 till the date of realization. The cost of the suit is awarded to the plaintiffs.

Decree sheet be prepared accordingly. File be consigned to record room after completing the necessary formalities.

MANOJ KUMAR

Digitally signed by MANOJ KUMAR
Date: 2026.07.13 15:53:24 +0530

(Manoj Kumar-II)
District Judge-01
South West, Dwarka Courts
13.07.2026