GJSR021500532024

Received on	09/10/2024
Registered on	09/10/2024
Decided on	10/08/2026
Duration	Ys. Ms. Ds.

IN THE COURT OF 12th ADDL. SENIOR CIVIL JUDGE,
SURAT AT SURAT.

Special Civil Suit No.245/2024.

Plaintiff ;
Hiten Ravjibhai Patel,
Authorized Person of Fenisha Enterprises
Aged : 40 years, Occupation: Business, Caste: Hindu,
Residing at (1) 357, Kalathiya Industries-1, Diamond Nagar, Laskana, Surat and
(2) A-202, Sarathi Complex, Near Sargam Doctor House, Hirabagh, Surat.

Versus

Defendant;
Two-Jokers Entertainment a Proprietary Firm for and on behalf of its Proprietor,
Parth Rajendrakumar Brahmabhatt
Age : 30 years, Business : Business, Caste : Hindu
Residing at ; Coral Heights, B-1102, Eleventh Floor, Near Crystal Heights, Palanpur, Canal Road, Surat.

Subject : Suit For Recovery of Rs.35,71,735/-.
Aysha B. Bhanapatel, Learned Advocate for the plaintiff.

~ J U D G M E N T ~

[1] The present suit is instituted by the plaintiff against the defendant for recovery of Rs.35,71,735/- along with the interest from the date of filing of the suit till the realization. The brief fact of the present case is that;

The plaintiff is a Proprietary and registered Firm in the name of Fenisha Enterprises and Rahul Tulsibhai Shankar is the proprietor of the said firm and was doing textile and agricultural food business at the address mentioned in cause title at Sr. No.1 since last eight years. It is further submitted that the defendant is friend of plaintiff's friend namely Sachin Patil and through his friend, the plaintiff came to know the defendant in the period of March-2023 and at that time the defendant introduced himself and told that the defendant was running a business of event management, entertainment and recreation exhibition, convention trade show organization services etc. from Palanpur, Surat under the name of 'Two Jokers Entertainment' and as part of defendant's business activities, he has organized an event named 'Gozo Festival' at Balar Farm, Vesu, Surat, in which, the defendant has indeed a huge amount of money but he could not arrange such amount immediately. Therefore, the defendant has requested the plaintiff to help him financially in his event and at that time, the defendant also stated that he would return the money immediately after the event was completed and would also give an additional amount as interest on that amount and 2% of the income as profit and therefore, trusting and relying on the defendant's statements, the plaintiff has shown his willingness to help the defendant financially and invested an amount of Rs. 35,00,000/- in order to organize the said event and as the defendant demanded money from the plaintiff as per the defendant's requirement and accordingly, the said amount was transferred by the plaintiff from his bank Kotak Mahindra Bank vide Account No. 9246463747 to the defendant's bank ICICI Bank Account No. 085205501324 through IMPS, NEFT, Debit Card and cash from 19/01/2023, the details of all transactions are mentioned in Page No.3 in suit plaint. It is further submitted that the amount paid by the plaintiff to the defendant is shown as "investment" in the plaintiff's account, but in reality, the said amount was lent by the plaintiff to the defendant for the purpose of helping him in his business activities and according to the defendant, the said amount was used for the train ticket and flight ticket of the artist coming to the defendant's event, as well as the artist's fee, etc. Thus, the plaintiff has transferred total amount of Rs.35,81,735/- from his account to the defendant's bank account for the period from 19/01/2023 to 04/03/2023, which amount were received by the defendant. It is further stated that the defendant has stated to the plaintiff that that after the completion of the program, the defendant has calculated the amount of income from the event and paid to the plaintiff. Thereafter, after the event, the plaintiff has demanded from the defendant the amount of Rs. 35,71,735/– invested in the defendant's along with 2% interest as profit as per the defendant's statement. But, the defendant has denied to pay the amount with reasons that other payments were pending, which he was received in 20-25 days or in the month of March-April 2023. Even after that, the plaintiff has given one month time to the defendant to return the due amount and thereafter, the defendant has passed the time and given false reply and has not paid the due amount. It is further submitted that, on demand of the due amount from the plaintiff repetedly, the defendant has tendered two Cheques bearing Nos.000361 of Rs.75,000/-, dtd.11/11/2023 and No.000364, of Rs.1,25,000/- on Dtd.11/12/2023 of I.C.I.C.I. Bank, Piplod Branch, Surat as part payment. It is the further submitted that the defendant has given trust and assurance that the said cheques will be cleared on depositing the same in the bank for clearing. Relying upon the said trust, the plaintiff has deposited both the cheques in his bank named Kotak Mahindra Bank Ltd., Piplod Branch, Surat, which were returned on 01.08.2017 with remarks of ‘Account Closed’. Thereafter, the plaintiff has issued notice through his advcocate to the defendant on 08/02/2024 through R.P.A.D at the address of the defendant, which was also served to the defendant and the demand was made to make return the said due amount. Inspite of service of notice, the defendant neither replied the notice nor has paid any amount due to the plaintiff. Hence, It appears that the defendant had ulterior motive since the very beginning to dupe the complainant of his dues, and accordingly, the accused, inspite of knowledge that he has not sufficient amount in his account, issued cheques keeping ulterior motive of not getting it cleared, has committed fraud with the plaintiff. Hence, the plaintiff has filed this suit against the defendant for recovery of the suit amount with interest and prayed as per mentioned in Para No.18 of the suit plaint.

[2] On response of summons and notice issued by the Court, the defendant has not appeared before the Hon’ble Court and not filed any report or documents or evidence on behalf of him. Hence, an order to proceed ex-parte suit against the defendant has been passed below Exh.6 on 14/02/2025. On Called out, till today neither the defendant nor his advocate remain present before the

Court, therefore this Court has closed their right to file documentary evidence in the matter on 07/02/2026.

[3] The plaintiff has submitted the following evidence on his behalf.

ORAL EVIDENCE

Sr No.	Exh. No.	Particulars
1	10	Deposition of Hiten Ravjibhai Patel.

DOCUMENTARY EVIDENCE

Sr No.	Exh. No.	Particulars
1	15	Copy of Adhar-Card
2	16	Certified copy of authority letter
3	17	Certified copy of GST certificate of plaintiff firm
4	18	Certified copy of GST certificate of defendant firm
5	19	Certified copy of statement of plaintiff firm in Mahindra Bank
6	20	Certified copy of cheque no.000361 of ICICI Bank issued by the defendant
7	21	Certified copy of cheque no.000364 of ICICI Bank issued by the defendant
8	22	Certified copy of cheque return memo of cheque no.000361
9	23	Certified copy of cheque return memo of cheque no.000364
10	24	Original Notice issued by the plaintiff to the defendant through his advocate.
11	25	Original R.P.A.D. receipt of notice.
12	26	Original track record of serving notice to the

		defendant.

Except these, no other evidences have been produced by the plaintiff.

[4] For the determination of the present suit, this court has framed the issues vide Exh.7.

[૧] શું વાદી પુરવાર કરે છે કે તોઓ આ કામના પ્રતિવાદી પાસેથી લેણી રકમ રૂ. ૩૫,૭૧,૭૩૫/- અંકે રૂપિયા પાંત્રીસ લાખ એકોતેર હજાર સાંતસો પાંત્રીસ પુરા દાવાની તારીખથી વસુલ થતા સુધી ૨% લેખે નફા સહીત પ્રતિવાદી પાસે વસુલ કરવા હક્કદાર છે?

[૨] શું વાદી દાવામાં માગ્યા મુજબ દાદ મેળવવા હક્કદાર છે?

[૩] શું હુકમ અને હુકમનામું?

[5] My findings of the above points are as under for the following reasons.

[1] In the Affirmative.

[2] In the Affirmative.

[3] As per the final order.

[6] The reasons for the aforesaid reply are as under;

<u>R E A S O N S</u>

<u>Issue No.1 & 2</u> :-

Issue No.1 & 2 are correlated with each other, for the sake of convenience, I am discussing them together. The plaintiff in his plaint has submitted that the defendants have borrowed the total amount of Rs.35,71,735/- from the plaintiff for running his business activities through IMPS, NEFT, Debit card Transaction and by cash and agreed to pay the said amount after completion of his event with 2% interest, out of which the defendant has not paid any amount to the plaintiff.

[7] The plaintiff in his deposition at Exh.10 has supported the averments stated in the plaint. Moreover, these averments made in the plaint are also supported by documentary evidence produced by the plaintiff, vide Exh.16 is the Authority letter given by the plaintiff firm in the name of Hiten Ravjibhai Patel, Exh.17 and Exh.18 are the GST certificate of plaintiff and defendant firm, Exh.19 is the Statement of plaintiff's account in Kotak Mahindra Bank from the period of 12/08/2022 to 31/03/2023, which shows that the name of the plaintiff firm is mentioned as holder of account and the transaction entries from 19/01/2023 to 04/03/2023 shows that the plaintiff firm has transferred some amount from his bank account to the defendant's bank account during the period. Exh.20 and Exh.21 are the certified copies of cheque bearing Nos.000361

of Rs.75,000/-, dtd.11/11/2023 and No.000364, of Rs.1,25,000/- Dtd.11/12/2023 of I.C.I.C.I. Bank, Piplod Branch, Surat, which shows that the name of the defendant 2Jokers Entertainment is mentioned as holder of the cheques and both the cheques are account payee and issued in favour of the plaintiff firm named Fenisha Enterprises and the defendant has made his signature on the cheques and the said cheques were given willingly and signed by the defendant himself. Above this, it clearly reflects from the evidence that the said cheques were given to the plaintiff after repeated demands of due amount by the plaintiff. Hence, the cheques were given by the defendant signed himself and were given to the plaintiff to satisfy his legal dues, is proved. After repeated demand by the plaintiff to the defendant to return his cheques were returned uncleared, the plaintiff has issued demand notice to the defendant on dated 10/02/2024 placed on record vide Exh.15. If, we peruse the address written on Exh.15, it is the same address stated in the GST Certificate vide Exh.18. This means that the notice was sent to the plaintiff on the same address as stand in Exh.1 and it is also served through R.P.A.D receipt vide exh.25. Even after the demand notice was sent to the defendant, he did not reply to the said notice. Now, it is pertinent to note that the defendant was served with the summons of the court on the same address then it can be presumed that the defendant would also have been served with the summons on the same address. After service of summons, the defendant failed to appear before the court and to defend the suit of the plaintiff. As per the deposition of the plaintiff, Parth Rajendrakumar Brahmbhatt is the proprietor of the defendant firm and they are responsible for any financial transaction. The defendant is failed to challenge the said averments stated on Oath by the plaintiff. There is no any single documentary evidence produced and proved by the defendant showing that the defendant not the authorised person of the defendant firm. The defendant is also failed to prove that the plaintiff has not received the amount of Rs.35,71,735/- to him. The defendant has neither challenged the documents produced by the plaintiff nor has given any deposition on his behalf and hence, deposition of the plaintiff and the documents produced by the plaintiff have gone unchallenged and they are believed to be correct. Hence, the defendant is liable to pay due amount to the plaintiff.

Issue No.1 is also pertaining to interest, there is no contractual rate of interest exist between the parties as there is no any evidence or any payment terms to show the interest, plaintiff is entitled to recover the interest on the due amount from the defendant at the same rate as prayed by the plaintiff. The Court has discretion towards the interest, and prevailing rate of interest of R.B.I, @ 6% simple interest p.a. will be sufficient, accordingly simple interest @ 6% on the suit amount from the date of institution of the suit and accordingly, I reply issued No.1 in Affirmative.

The defendant was duly served the summons of the Court on 25/11/2024 and on 14/02/2025 the stage of defence was closed. When the defendant is not appeared before the Court and not objected the contents of the suit and application of the plaintiff, then the plaintiff suit is make successfully.

[8] In the above discussion, plaintiff is succeed in the suit, therefore I pass following final order, bearing in mind settled principle that cost shall follow the events.

- / O R D E R / -

[1] The suit of the plaintiff is hereby partly allowed.

[2] The defendant is hereby ordered to pay the amount of Rs.35,71,735/- (Rupees Thirty Five Lacs Seventy One Thousand Seven Hundred Thirty Five Only) to the plaintiff together with the interest at the rate of 6% p.a. from the date of filing of the suit till the realization of the amount.

[3] Plaintiff is entitled to recover decretal amount from all movable, immovable and personal properties and persons of the defendant.

[4] The defendant shall pay the cost to the plaintiff and bear their own.

[5] Decree should be drawn accordingly.

Signed and Pronounced in open Court on 10th Day of August 2026.

Place: Surat
Date : 10/08/2026

(P. S. Sindhi)
12th Addl. Sr. Civil Judge,
Surat
GJ00982