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00-02-24

**IN THE COURT OF PRINCIPAL SENIOR CIVIL
JUDGE AT KHEDA**

REG. SUMMARY SUIT NO. 1 OF 2026

Exh-

Plaintiff:

Kalpeshbhai Rasikbhai Patel
Residing at: Opp. Patel Vadi,
Ta. & Dist. Kheda

V/S

Defendant:

Akhtarhussain Jafarhussain Shaikh
Residing at: Shaikhwado,
Village Malawada, Ta.Matar
District: Kheda.

Suit For Recovery Of Rs. 1,90,000/-.

Appearances:

Learned Advocate Mr. V.D. Parekh for the plaintiff
Ex-parte for the defendant

J U D G M E N T

1) That plaintiff herein has filed the present summary suit under the provisions of Order 37 of C.P. Code for the recovery of Rs. 1,90,000/- from the defendant herein. The relevant facts stated in the present suit are as under:

The plaintiff is a businessman and doing its business activities for his and his family livelihood whereas the defendant is driver and the plaintiff and the defendant both are friends. As

the defendant wants to purchase a new vehicle, the plaintiff had given a handloan of Rs.2,00,000/- to the defendant on October-2024. The plaintiff has further stated that defendant had promised the plaintiff that he will repay the same in a short time of 6 months and he has given a surety to the plaintiff. The plaintiff has further stated that as per the say of the defendant, the plaintiff has called the defendant to repay the said amount but the defendant has only made a partial payment of Rs.10,000/- to the plaintiff and not repaid the said full due amount to the plaintiff. The plaintiff has further stated that time and again plaintiff requested the defendant to clear the dues of the remaining amount and for that the defendant has issued cheque for the remaining amount of Rs.1,90,000/- vide Cheque No.345857 on 23/05/2025.

The plaintiff has further stated that he had presented the said cheque in his own account in HDFC Bank Limited, Kheda Branch but the said cheque was returned with an endorsement "**Exceeds Arrangement**" from the account of defendant on 26/05/2025. The plaintiff has further stated that the plaintiff has informed the said incident to the defendant for which defendant has neglected to pay the remaining amount of Rs.1,90,000/- to the plaintiff. Thereafter, the plaintiff had given a notice on dated 15/12/2025 to the defendant U/Sec.138 of N.I. Act calling upon him to pay the cheque amount but the said notice was returned with the remarks "**Owner refused to accept**". It is further stated by plaintiff that the defendant has not paid the amount of Rs.1,90,000/- to the plaintiff which was borrowed by him. Hence, the plaintiff has filed the present summary suit under

Order 37 of C.P. Code to recover the outstanding debt of the defendant for Rs. 1,90,000/- from the movable and immovable assets of the defendant with the interest of 18% P.A.

2) Upon receiving the plaint, the summons under Rule 2 of Order 37 of C.P. Code in prescribed Form No.4 was issued to the defendant and at the time of service of the said summons the defendant refused to accept the cover, however according to the CPC Order 5 Rule 17 which says that.."*refusal to accept summons at the door is treated as **valid/deemed service** under the rules relating to service of summons*", now it can be said that the summons is served upon the defendant, the said returned cover is on record at Exh.6. However, the defendant have not appeared before this Court in person or through their advocate, within 10 days of service of summons. Therefore, the Court has decided to proceed further with the matter ex-parte.

3) In support of suit claim amount, the plaintiff has produced the documents at **Exh.9** to **Exh.14**. If, we peruse the said documents, it transpires that the defendant has borrowed the amount of Rs.2,00,000/- from the plaintiff for which he has promised to clear it within 6 months but has only paid Rs.10,000/- and had issued cheque of Rs.1,90,000/- in favour of the plaintiff vide Cheque No.345857 on 23/05/2025 but the said cheque was returned uncleared. A original copy of the cheque given by defendant is produced at **Exh.09**. A memo of Bank produced at **Exh.10**, it clearly shows that the cheque issued by defendant on 23/05/2025 was returned on dated 26/05/2025 with bank memo "**Exceeds Arrangement**". As the cheque was returned, the plaintiff had given a notice which is on record vide

Exh.11 to the defendant on dated 15/12/2025 calling upon him to pay the amount of disputed cheque within 15 days. The receipt of RPAD, cover and track report is produced at **Exh.12 to Exh-14**. However, the defendant has not paid the suit amount to the plaintiff. Considering the documents produced by plaintiff, it clearly transpires that the defendant has taken a handloan of Rs.2,00,000/- from the plaintiff and Rs.1,90,000/- was not been paid by him, though notice was given to him, hence filed this suit.

4) It is on record that, though the summons for appearance was served upon the defendant, he has not appeared or turned up before this Court till date. Thus, the defendant has failed to make his appearance before this Court. So, in view of the provisions of Order 37 Rule 2(3) of C.P. Code, if the defendant fails to appear before the Court within 10 days, the plaintiff shall be entitled to judgment forthwith. Thus, considering the documents produced by plaintiff and keeping in mind the statutory provisions, the plaintiff is entitled to judgment. In the result, I pass following order in the interest of justice:

: ORDER :

1. The present suit is allowed.
2. The plaintiff shall be entitled to recover the suit amount of Rs.1,90,000/- from the defendant with interest @ 12% P.A. from the date of filing of this suit till its realization.
3. The defendant is hereby ordered to pay the decretal amount of Rs.1,90,000/- with interest @ 12% P.A. to the

plaintiff from the date of filing of this suit till its realization .

4. Decree be drawn accordingly.

Pronounced and signed in open court today on 30th day of March, 2026.

Place Kheda

Date 30-03-2026

(Maheshkumar Chimanlal Patel)

Principal Senior Civil Judge
Kheda

Code No. GJ01199

M.M.SHAIKH