

#### ORDERS ON I.A.NO.1

1. I.A.No.1 is filed by the plaintiff U/O.XIII-A Rule 4 of CPC seeking an order to pass a summary judgment and decree the suit in favour of the plaintiff against the defendant.
2. In this case, despite of service of summons on the defendant, the defendant placed exparte. Therefore, objection to I.A.No.1 not filed.
3. Perused the records.
4. The plaintiff has filed this commercial suit on 5.12.2022 for recovery of sum of ₹5,89,809/- with Court costs and current and

future interest at the rate of 13.20% per annum compounded monthly from the date of suit till realization.

5. The plaintiff contended that, the plaintiff is a bank and the defendant that on 24.2.2018 took financial assistance of ₹4,90,000/- for his business purpose from the plaintiff-bank and defendant executed necessary documents for repayment of the said loan. The defendant utilized loan for his business purpose. But the defendant did not make repayment of the loan as agreed.

6. As on the date of filing the suit, the defendant was due in a sum of ₹5,89,809/-. Though, the matter was referred to the District Legal Services Authority, Davanagere in PIMS No.69/2022, the defendant did not appear before the said Authority. Hence, the plaintiff constrained to file the present suit.

7. Even after issuance of summons and due service of summons, the defendant did not appear.

8. Now the plaintiff has come up with the present application seeking passing of summary judgment.

9. I have gone through the Commercial Courts Act, 2015. There is amendment to the CPC to Order XIII and new Order XIII-A inserted i.e., "Summary Judgment which provides this order sets out the procedure by which Court may decide the claim pertaining to any commercial dispute without recording oral evidence".

10. In this case, learned counsel for the plaintiff has relied upon the judgments of Hon'ble High Courts and also synopsis with regard to following the procedure for passing the summary judgment. I have gone through the materials furnished by the learned counsel for the plaintiff.

11. In the judgment passed by the Hon'ble Delhi High Court in the case of K.R.IMPEX V/S. PUNJ LLOYD LTD., it is observed that where there is an admission of liability by the defendant towards the plaintiff's claim and the cases falls in the category of the defendant having no real prospect of successfully defending the claim or there being other compelling reasons regarding the claim, and in such circumstances, the claim may be disposed without recording the evidence.

12. Further, it is held that the objectives of the Commercial Courts Act, even otherwise is to expedite the disposal of the commercial suits and none of the provisions thereof can be interpreted as counter productive to the said objective of the commercial courts Act and it would delay rather than expedite the disposal of commercial suits, if in spite of finding a suit to be befitting of summary judgment, the court considers itself constrained merely on account of issues having been framed.

13. Relying upon the provisions of Order XIII-A of Commercial Courts (Amendment to CPC) Act, and further on going through the observations made in the judgment relied by the learned counsel for the plaintiff and in this case as the defendant placed exparte, this Court is of the opinion that the summary judgment may be pronounced as provided U/O.XIII-A Rule 4 CPC, thereby I.A.No.1 deserves to be allowed. Accordingly, I proceed to pass the following;

#### O R D E R

I.A.No.1 filed U/O XIII-A Rule 4 CPC is allowed.

For passing summary judgment by;

(Dictated to the Judgment Writer, after his transcription, corrected, signed and then pronounced by me in the Open Court dated this the 27<sup>th</sup> day of September, 2023).

(Rajeshwari N. Hegde)  
Principal District & Sessions Judge,  
Davanagere.