

KABC170027862022



**IN THE COURT OF LXXXV ADDL. CITY CIVIL &
SESSIONS JUDGE, AT BENGALURU (CCH-86)
(Commercial Court)**

THIS THE 08TH DAY OF NOVEMBER 2022

**PRESENT:
SMT. LATHAKUMARI M.
M.A., LL.M.,
LXXXV ADDL. CITY CIVIL & SESSIONS JUDGE,
BENGALURU.**

Com. O.S. No. 1479/2022

BETWEEN:

Sri. E Kumaraswamy Naidu

Prop. of JMT Enterprises

S/o Kuppuswamy Naidu

Aged about 49 years

21/38, 2nd Main Kaverappa Layout,

AGS Layout,

Bengaluru-560061

: PLAINTIFF

**(Represented by Sri.
Muralidhara A - Advocate)**

AND

1. AMBIANT VENTURES

Represented by its directors

Below mentioned 2 to 6

2. Gudivada Srinivas Rao
3. Raja Srinivas Srinivas Prasad
4. Govindaraju Dandapani
5. Anagati Venugopal Nagaraj
6. Mahendra Gudivada

Sl. No.1 to 6 at; No.2460, 3rd Floor,
Banashankari 2nd Stage,
24th Cross, 17th Main,
Bangalore - 560 070.

: DEFENDANTS

(Ex-parte)

Date of Institution of the suit	10.10.2022
Nature of the suit (suit on pronote, suit for declaration & Possession, Suit for injunction etc.)	Suit for recovery of money
Date of commencement of recording of evidence	---
Date on which judgment was pronounced	08.11.2022
Total Duration	Year/s 00 Month/s 00 Day/s 28

(LATHAKUMARI M.),
LXXXV Addl.City Civil & Sessions Judge,
Bengaluru.

J U D G M E N T

This is a plaintiff's suit for judgment and decree directing the defendants to pay a sum of Rs.23,24,553/- along with interest @ 24% p.a., from the date of suit till the date of payment of the amount with cost and such other reliefs as this court deems fit to grant in the facts and circumstances of the case.

2. The brief facts of the plaintiff's case is that, he is running steel and cement business in the name and style of M/s. JMT Enterprises at AGS layout, Bengaluru and as per the request of defendants the plaintiff had supplied the cement and steel on credit basis for a short period under various invoices bearing No. 28, 43, 125, 130, 138, 156, 275, 298, 356, 407, 578, 583, 588, 654, 655, 818, 851, 856, 973, 991, 993, 1006, 1028, 1030, 1180, 1190, 1196, 1234, 1417 and 1441 i.e., in all 30 invoices on various dates for various amounts. These transactions are excluding the transactions which are taken place before April 2019. It is plaintiff's further case that, the confirmation of accounts along with Sundry Debts for the year 01.04.2018 to 31.03.2019, 01.04.2019 to 31.03.2020, 01.04.2020 to 31.03.2021 and 01.04.2021 to

31.12.2021 have been served to the defendant and defendant had confirmed the statements of accounts by affixing his seal and signature. Towards part payment of the said invoices, the defendant also issued cheque dated 05.10.2020 for a sum of Rs.3,00,000/-. When plaintiff presented the said cheque same was returned unpaid as 'Funds Insufficient' on 07.10.2020. As per the statements of accounts maintained by plaintiff from 01.04.2021 to 31.12.2021 the defendant is liable to pay sum of Rs.16,72,341.55/- as on 31.07.2021. In spite of several requests made by plaintiff, defendant has failed to pay the said balance amount, hence the plaintiff had issued the legal notice dated 31.01.2022 through his counsel calling upon the 1st defendant represented by its directors i.e., defendants No.2 to 6 to clear the balance amount along with interest at the rate of 18% p.a. In spite of service of the said notice, the defendants failed to pay the amount due. Hence, the plaintiff has initiated Pre-Institution Mediation before District Legal Service Authority, Bangalore Urban, Bangalore, vide PIM 948/2022 on 16.04.2022 since there was no settlement, said authority issued Non-Starter Report. It is plaintiff's further case that defendants are liable to pay the balance invoice amount

of Rs.16,72,341/- as on 31.07.2021 along with interest @ 18% p.a. and also cost of this litigation expenses with future interest. The cause of action arose on the date of invoice and on 02.08.2021 when the defendant has made endorsement on confirmation of accounts and also when the cheque was returned as funds insufficient on 07.10.2021 and hence pray for the reliefs mentioned supra.

3. On issuance of suit summons to the defendants, inspite of service of suit summons on all the defendants through its office clerk, they remained absent. Accordingly placed ex-parte.

4. Considering that the plaint averments being in consistent with the documents produced by the plaintiff along with the plaint, this court dispensed with the plaintiff's evidence as per the provisions of Order VIII Rule 10 CPC.

5. I have carefully scrutinized the entire records placed before me. Heard the arguments.

6. Now the following points that arise for my consideration are:-

- 1) Whether the Plaintiff is entitled to recover a sum of Rs.23,24,553/- from the defendants along with interest at the rate of 24% p.a., from the date of suit till realization of the amount with cost as claimed?
- 2) What Order?

7. My answers to the above Points are as under:

Point No.1 :- In the Affirmative

Point No.2 :- As per the final Order
for the following reasons.

REASONS

8. Point No.1:- It is the case of plaintiff that he is running steel and cement business in the name and style of JMT Enterprises and supplied cement and steel on credit basis to the defendant herein under 30 invoices. The defendant having accepted his liability under these invoices issued cheque towards part payment for Rs.3,00,000/- dated 05.10.2020 and same was returned unpaid. Though defendants received demand notice issued by the plaintiff calling upon them to clear the

amount due along with interest, they have not bothered to make the payment. To substantiate the claim of the plaintiff, plaintiff has produced the original tax invoice as per document No.1 to 30. Further, plaintiff has also produced confirmation of accounts and sundry debtors acknowledgment by defendant with their seal and signature as per document No.31 to 34. Document No.35 and 36 are the original cheque issued by defendants towards part payment of Rs.3,00,000/- and also bank endorsement for dishonour of cheque. Document No.37 to 49 are all postal receipts and acknowledgment for having served demand notice on defendants. In spite of service of demand notice dated 21.01.2022 none of the defendants bothered to reply to the said notice. Even in the demand notice the plaintiff has specifically mentioned the details of 30 invoices referred in the plaint and also his claim and the interest claimed. In spite of calling upon the defendants to clear the amount of Rs.16,72,341.55 within 15 days, defendants not responded to the said notice. Even Pre-Institution Mediation initiated by plaintiff was not properly responded from defendants. The various invoices produced at document No.1 to 30 and also the confirmation document issued by defendants which is at

document No.31 to 34 which bears seal and signature of defendant establishes the claim of the plaintiff against defendants. The defendants inspite of having received the demand notice not bothered to reply the same. As I have already stated even summons issued by this court served on all the defendants through 1st defendant office. However, none of the defendants appeared before this court inspite of service of suit summons. Under such circumstances, the plaint averments produced and relied upon by the plaintiff, establishes the defendants liability in favour of the plaintiff herein. Plaintiff having supplied the materials like steel, cement under as many as 30 invoices as per document No.1 to 30 is certainly entitled to recover the said amount along with interest. The defendant is claiming future interest at the rate of 24% p.a. However, in the invoice, there is a clause with regard to payment of interest for delayed payment and in this clause the rate of interest is shown as 18%. Accordingly, plaintiff is entitled to recover the invoice amount of Rs.16,72,341/- as on 31.07.2021 along with interest at the rate of 18% p.a. At para-6 of the plaint, plaintiff himself has calculated interest from 31.07.2021 at the rate of 18% p.a., till 31.09.2022 which amounts to

Rs.6,52,212/-. Since the transaction between the plaintiff and defendants is commercial in nature and defendants having received the material under 30 invoices have utilized the same for business purpose are liable to pay the amount due along with agreed rate of interest i.e., 18% p.a., accordingly plaintiff is entitled to recover Rs.23,14,553/-. Further plaintiff has claimed Rs.10,000/- towards demand notice charges. Since plaintiff will be awarded with cost, the plaintiff's claim is considered along with interest and cost. The facts set out in the plaint even if treated to have been admitted, this court is satisfied that suit is required to be decreed in favour of the plaintiff without requiring defendant to prove any fact mentioned in the plaint. Considering these circumstances, this court proceed to pass the judgment as per the provisions of Order VIII Rule 10 CPC. Accordingly, I answer Point No.1 in the Affirmative.

9. Point No.2 : - In view of my findings on Point No.1, I proceed to pass the following:

ORDER

***The Suit filed by the plaintiff for
recovery of a sum of Rs.23,24,553/- from***

defendants is decreed with cost.

Further, the plaintiff is entitled for future interest at the rate of 18 percent p.a., only in respect of principle amount of Rs.16,72,341/- from the date of suit till realization of the amount.

Draw decree accordingly.

(Dictated to the Judgment Writer, transcribed by him, corrected and then pronounced by me in open Court on this the **08th day of November, 2022**).

**(LATHAKUMARI M.),
LXXXV Addl. City Civil & Sessions Judge,
Bengaluru.**

A N N E X U R E

**LIST OF DOCUMENTS PRODUCED ON BEHALF OF
THE PLAINTIFF ALONG WITH PLAINT
(DEFENDANT EX-PARTE)**

- 1) Original Tax Invoices
- 2) Confirmation of accounts and sundry debtors
acknowledged by defendant with seal and signature

- 3) Original Cheque and original bank endorsement
- 4) Office copy of legal notice, 6 original postal receipts, 6 original postal acknowledgements
- 5) PIM Report

LIST OF WITNESSES EXAMINED ON BEHALF OF THE DEFENDANTS

NIL

LIST OF DOCUMENTS EXHIBITED ON BEHALF OF THE DEFENDANTS

NIL

**(LATHAKUMARI M.),
LXXXV Addl.City Civil & Sessions Judge,
Bengaluru.**