KAMS300015532025

IN THE COURT OF I ADDITIONAL SENIOR CIVIL JUDGE & JMFC, HUNSUR

Dated this the 2nd day of April, 2026

-:Present:-

Smt Bhagyamma, B.Com., LL.B.,
I Addl. Senior Civil Judge & JMFC,
Hunsur

O.S./247/2025

PLAINTIFF :

Syed Riyaz Pasha,
S/o Syad Peer,
Aged about 51 years,
R/at NES Colony,
Hunsur Town, Hunsur.

Presently R/at Eidgha Mohalla,
Arehalli Village,
Belur, Hassan District – 573101.

(By Sri SNK, Advocate)

// Versus //

DEFENDANT/S :

Muhammed Faizal Karmala,
S/o Yusuf Beary B.,
Aged about 32 years,
R/at Haifa Cottage Karmala
Puttur, Bannur (Rural)
Bannur, Dakshina Kannada – 574203.

(Exparte)

Date of institution of the suit	:	14.07.2025
Nature of the suit	:	Money Suit
Date of recording evidence	:	11.02.2026
Date of Judgment pronounced	:	02.04.2026
Total Duration	:	**00** years **08** months **18 days**

(BHAGYAMMA)
I Addl. Senior Civil Judge & JMFC.,
Hunsur.

-:: <u>J U D G M E N T</u>::-

The plaintiff has filed this suit against the defendant for the recovery of money of Rs.4,73,200/- together with cost from the date of filing of the suit till its realisation.

2. The factual matrix of the plaintiff's case is as under:

It is the case of the plaintiff that the defendant is well acquainted with the plaintiff and having very close friendship between them since several years, based upon such friendship the defendant explained his financial difficulties faced by him by borrowing hand loan by paying high interest from other financiers for the purpose of his family necessities and household expenses. Therefore the defendant approached the plaintiff on 18/02/2021 and requested for financial assistance. Based on the acquaintance and out of cordial friendship between them, the defendant sought for financial help for a sum of Rs.4,73,200/-(Four Lakh Seventy Three Thousand Two Hundred Rupees only). It is further pleaded that, the plaintiff agreed to lend financial help to him and the defendant has borrowed sum of Rs.4,73,200/-(Four Lakh Seventy Three Thousand Two Hundred Rupees only) by way of cash. On the same day, the defendant issued Cheque Bearing No.065303 drawn on Federal Bank, Mangalore, in favour of plaintiff in the presence of witnesses and promised that he will repay the loan amount whenever he demands, accordingly the defendant received Rs.4,73,200/- from the plaintiff. Thereafter the defendant presented the aforesaid cheque dated 01/09/2022 Bearing No.065303 through his account holder bank viz., State Bank Of India, Silver Jubilee Road, Hunsur Branch for encashment, but the said cheque was returned due to “Funds Insufficient” on 12.09.2022. The plaintiff on several occasions approached the defendant demanded for repayment of the loan amount. Even then the defendant has not come forward to pay amount till date. It is pleaded that from October 2022 the defendant is postponing the same without paying the amount by giving one or other reason. That the defendant failed to honour the demand made by the plaintiff binspite of all sorts of effort and he demanded particularly on 15/10/2022 by visiting the house of defendant. At that time the defendant started again for seeking more time for repayment of the same. Thus, all the effort made by him went in vain and without any alternative, the plaintiff issued a legal notice to the defendant through his counsel on 16/10/2022, which has been received by him on 19/10/2022, despite the defendant did not come forward to pay the loan amount. It is pleaded that the defendant having movable and immovable property in his native place i.e., Haifa Cottage Karmala Puttur, Bannur (Rural), Bannur, Dakshina Kannada, having financial capacity to repay the loan amount. The act of the defendant is nothing but cheating and intentionally trying to escape from the liability due towards the plaintiff. Finally, the plaintiff constrained to file this suit for recovery of money against the defendant.

3. Inspite of service of summons the defendant remained absent from appearing before the court, hence he is placed exparte.

4. Thereafter, this court recorded the evidence of plaintiff. The plaintiff got examined as PW-1 and got marked Ex.P-1 to 8.

5. On the basis of plaint pleadings the following points would arise for my consideration.

POINTS:

1. **Whether the plaintiff proves that the defendant has taken hand loan of Rs.4,73,200/- from him and issued a cheque for a sum of Rs.4,73,200/- in his favour?**

2. **Whether the plaintiff is entitled for the reliefs as sought for?**

3. **What order or decree?**

6. Heard and perused the oral and documentary evidence adduced by the plaintiff. My findings on the above points are as under:

Point No.1	**:**	**In the Affirmative**
Point No.2	**:**	**In the Affirmative**
Point No.3	**:**	**As per final order for the following;**

:: R E A S O N S ::

7. **Point No.1**:- The plaintiff pleaded in the plaint that the defendant borrowed hand loan of Rs.4,73,200/- from him on 18.02.2021 for his legal necessity i.e., to clear hand loans of high rate of interest agreeing to repay the same whenever he needed and also issued the cheque bearing No.065303 drawn on Federal Bank, Mangalore branch in favour of plaintiff for a sum of Rs.4,73,200/-. On presentation of the said cheque by the plaintiff through his banker State Bank of India, Silver Jubilee Road, Hunsur Branch, the same was returned vide shara "Funds Insufficient" dated 12.09.2022. Later on, the plaintiff on several occasions approached the defendant for repayment of amount, but he went on postponing the same by one or other reason. Hence, plaintiff caused a legal notice dated 16.10.2022, the same has been served to defendant on 19.10.2022 but he did not come forward to pay loan amount. Hence, this suit of plaintiff for the relief of recovery of a sum of Rs.4,73,200/-, grant the cost of suit and such other reliefs as this court deems fit in the interest of justice and equity.

8. In order to establish the case of plaintiff, he himself got examined as PW-1 and got marked Ex.P-1 to 8. Wherein Ex.P-1 is the cheque bearing No.065303 dated 01.09.2022 for a sum of Rs.4,73,200/- in favour of plaintiff drawn on Federal Bank, Mangalore. The said cheque bears the signature of the defendant. On perusal of the same it reveals that the defendant issued cheque in favour of plaintiff and the said cheque inEx.P-1 is unchallenged, nor disputed the signature of defendant at Ex.P1(a). Ex.P-2 – bank endorsement, which clearly establish the case of plaintiff that the cheque issued by the defendant was dishonored. Ex.P-3 is the postal acknowledgment. Ex.P-4 & 5 are on demand pronote and consideration receipt. Ex.P-5 is the copy of legal notice. Ex.P6 is the postal receipt, Ex.P7 is the postal acknowledgment and Ex.P8 is the Adhar card of plaintiff.

9. In the case on hand, the defendant has been placed as exparte, in turn he has not denied nor objected the claim of plaintiff. On careful perusal of the above documents, the court can draw an inference beyond all preponderance of probabilities that defendant has issued a postdated cheque for a sum of Rs.4,73,200/- in favour of plaintiff. Hence, this court can believe the documents produced by the plaintiff at Ex.P-1 to Ex.P-8 and come to a conclusion that the defendant has taken loan of Rs.4,73,200/- from the plaintiff. Ex.P-5 is the legal notice dated 16.10.2022 wherein the averments made in the plaint are written in the notice and Ex.P-6 & 7 are the postal receipt and acknowledgment, which revealed

that the same notice has been sent to the defendant and acknowledged. It is well settled law that once the plaintiff has proved that the cheque came to be dishonoured and complied the provisions of Negotiable Instrument Act, the presumption under Section 139 of N.I.Act has to be raised. Herein in this case, the plaintiff has complied the provisions of N.I.Act. So, the presumption under section 139 of N.I.Act, has raised as to the dishonour of cheque and the cheque was issued for discharge of legally enforceable debt. Under such circumstances, there is no reason to disbelieve the case of plaintiff. Moreover, the documentary evidence filed by the plaintiff clears that the defendant has issued cheque as per Ex.P-1 in favour of plaintiff which definitely liable the defendant to repayment. Accordingly, the plaintiff is entitled for the present claim amount. For all these reasons, this court inclined to answer **Point No.1 in the Affirmative**.

10. **Point No.2:-** In the case on hand. the plaintiff has not demanded any interest from the defendant. Even other wise, the defendant obtained loan for his domestic purpose to meet the financial crisis. For this reason, the plaintiff is not entitled for any interest from the defendant, but awarding the claim amount will certainly give justice for both the parties. Hence, for all these reasons this court inclined to answer the **Point No.2 in the Affirmative**.

11. Point No.3:- In view of the discussion made and conclusion arrived at point Nos.1 & 2, suit of the plaintiff deserves to be decreed. Hence, this court proceeds to pass the following;

O R D E R

Suit of the plaintiff is hereby decreed with cost.

It is ordered and decreed that, defendant is liable to pay an amount for Rs.4,73,200/- to the plaintiff from the date of suit till its realization.

It is further ordered that, the defendant is liable to pay the said amount within three months from the date of this order. Failing which, the plaintiff is at liberty to recover the same in accordance with law.

Draw decree accordingly.

(Directly dictated to the Stenographer on computer, typed by him, transcript revised, corrected, signed and then pronounced by me in the open court on this the **2nd day of April, 2026)**

(BHAGYAMMA)
I Addl. Senior Civil Judge & JMFC.,
Hunsur.

ANNEXURE

LIST OF WITNESSES EXAMINED FOR PLAINTIFF:

PW-1 : Syed Riyaz Pasha

LIST OF DOCUMENTS MARKED FOR PLAINTIFF:

Ex.P-1 : Cheque bearing No.065303

Ex.P-1(a)	:	Signature of defendant
Ex.P-2	:	Bank endorsement
Ex.P-3	:	Postal acknowledgment
Ex.P-4	:	Ondemand pronote & consideration receipt
Ex.P-4(a)	:	Signature of defendant
Ex.P-5	:	Copy of legal notice dated 16.10.2022
Ex.P-6	:	Postal receipt
Ex.P-7	:	Postal acknowledgment
Ex.P-8	:	Adhar card

LIST OF WITNESS EXAMINED FOR DEFENDANT:

Nil

LIST OF DOCUMENTS MARKED FOR DEFENDANT:

Nil

(BHAGYAMMA)
I Addl. Senior Civil Judge & JMFC.,
Hunsur.