

MHCC010093442017



Presented on	19-09-2017		
Registered on	17-11-2017		
Decided on	19-09-2022		
Duration	Years	Months	Days
	05	00	00
CNR No.	MHCC010093442017		

EXH.14

IN THE BOMBAY CITY CIVIL COURT AT BOMBAY
SUMMARY SUIT NO.1343 OF 2017

RAHUL BHARAT SHAH

Age 38 years, having residence address at Flat Nos.501 and 502, Jeevan Deep CHS, Baburao Parulekar Marg, Off. Bhavani Shankar Road, Mumbai - 400 028.

Through Power of Attorney Holder Mr. Bharat H. Shah.

...Plaintiff.

V/s.

1. M/S. CHIRAG CORPORATION

having registered office address at F/12, Everest, 7th Floor, 156 Tardeo Road, Bombay : 400 034.

2. HITENDRA KANAIYALAL RAWAL

age not known, having registered office address at F/12 Everest, 7th Floor, 156, Tardeo Road, Bombay – 400 034.

And also having residence address at C/3, 212, Hari Om Apartment, S. V. Road, Borivali (West), Mumbai – 400 092.

3. JIGNESH VASANT CHAUHAN

age not known, having registered office address at F/12 Everest, 7th Floor, 156, Tardeo Road, Bombay - 400 034.

And also having address at 139 A, Bhuleshwar Road, Ground Floor, R. No.31, kabutar Khana, Kalbadevi, Mumbai - 400 002.

4. RAJESH SHRIMANKAR (HUF)

age not known, having registered office address at F/12, Everest, 7th Floor, 156, Tardeo Road, Bombay – 400 034.

And also having residence address at 34, 5th Floor, Mount Unique, 62 A, Peddar Road, Mumbai – 400 026.

5. SHEFALI CHETAN SHRIMANKAR,

age not known, having registered office address at F/12, Everest, 7th Floor, 156, Tardeo Road, Bombay – 400 034.

and also having residence address at D-902, 9th Floor, Kukreja Place, Near Police Ground, Vallabh Bhag Line, Ghatkopar (East), Mumbai - 400 077.

6. CHETAN SURYAKANTH SHRIMANKAR

age not known, having registered office address at F/12, Everest, 7th Floor, 156, Tardeo Road, Bombay – 400 034.

and also having residence address at D-902, 9th Floor, Kukreja Place, Near Police Ground, Vallabh Bhag Line, Ghatkopar (East), Mumbai - 400 077.

....Defendants.

Appearances:

Ld. Adv Mr. Jeetendra Ranawat for plaintiff.

None for defendants.

**CORAM : HER HONOUR JUDGE
SMT. R.K. KSHIRSAGAR
(C.R.No.13)**

DATED : 19th SEPTEMBER, 2022.

J U D G M E N T
(Ex-parte)

1. The present suit is filed by the plaintiff for recovery of an amount of Rs.17,48,500/-(Rupees Seventeen Lacs Forty Eight Thousand Five Hundred only)with further interest on the principal amount of Rs.15,00,000/-(Rupees Fifteen Lacs only) at the rate of 1% per month from the date of filing of the suit till its realization.

2. The facts in brief are as follows:

The plaintiff lent and advanced to the defendants the sum of Rs.15,00,000/- on 08.10.2014 by cheque with interest at the rate of 1% per month. The defendant executed demand promissory note in favour of plaintiff on 08.10.2014. The defendant failed to repay the same. The plaintiff on several occasions demanded the repayment of said amount, but the defendant failed and neglected to pay the same. The plaintiff issued legal notices but the defendant failed to repay the demand. Hence, the present suit. The plaintiff prayed to decree the suit.

3. The Defendants were duly served. They appeared and sought leave to defend. But, the defendants failed to comply the order in Summon for Judgment No.34 of 2018 and therefore they were proceeded Ex-parte.

4. Heard the Learned Advocate for plaintiff. Plaintiff filed Claim Affidavit Exh.04 alongwith Compilation of Documents vide Exh.05. Plaintiff filed the Original Promisory Notes vide Exh.06. Copy of Bank Passbook vide Exh.07. The plaintiff filed the dishonoured cheque

alongwith Bank memo vide Exh.08 and Exh.09. It shows that the defendantS acknowledged their liability by issuing cheques. The plaintiff has filed the office copy of the notice vide Exh.10. The Plaintiff also filed reply of defendants alongwith Power of Attorney vide Exh.11 and Exh.12

5. After going through the document filed by the plaintiff, it seems that the defendants had taken the amount and agreed to repay the same on demand alongwith interest. The defendants however, failed to repay the same. The defendants failed to appear and challenge the oral and documentary evidence of plaintiff. The defendants also failed to cross-examine the plaintiff. Therefore, the evidence of plaintiff has gone unchallenged. It seems that the defendant also issued a cheque towards discharge of his liability. However the said cheque was dishonoured. Therefore presumption follows that the cheque was issued towards discharge of legal liability. However the defendant failed to discharge the liability. The plaintiff on oath stated about the money lent to the defendants. The document filed by the plaintiff had also gone unchallenged. It therefore seems that the defendants are liable to pay the principal amount and the interest accrued upon it. The plaintiff calculated the amount of Rs.17,48,500/- till the date of filing of the suit. The plaintiff had claim the interest at the rate of 1% per month from 08.10.2014 to 08.08.2017 and further interest at the same date till its realization. Considering the nature of transaction it would not be appropriate to grant further interest at the rate of 1% per month. However, the interest at the rate of 9% per annum would meet the ends of Justice. Hence, I, proceed to pass the following order:

ORDER

1. The Summary Suit No. 1343 of 2017 is decreed with costs.

2. The defendant Nos.1 to 6 shall jointly and severally pay the sum of Rs.17,48,500/- (Rupees Seventeen Lacs Forty Eight Thousand Five Hundred only) to the plaintiff with interest on the principal amount of Rs.15,00,000/- (Rupees Fifteen Lacs Only) at the rate of 9 percent p.a. from the date of filing of the suit till its realisation.
3. Decree be drawn up accordingly.
4. Court fee be refunded to the plaintiff if any as per rules.
5. Judgement dictated and pronounced in open court.

R and P be sent to Record Department.

Dt.: 19-09-2022

Direct Typed on : 19-09-2022
checked on : 19-09-2022
Signed on : 19-09-2022

**(Smt. R. K. Kshirsagar)
Judge, (C.R.No.13)
City Civil Court, Gr. MUMBAI**

**(Smt. R. K. Kshirsagar)
Judge, (C.R.No.13)
City Civil Court, Gr. MUMBAI**

“CERTIFIED TOBE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER”	
20.09.2022 at 4.31 p.m. UPLOAD DATE AND TIME	(YATISH R. JAGDALE) NAME OF TYPIST

Name of the Judge	H.H.J.Smt.R.K.Kshirsagar (COURT ROOM NO.13)
Date of pronouncement of judgment/order	19.09.2022
Judgment/order signed by P.O. on	19.09.2022
Judgment/order uploaded on	20.09.2022