

MHCC040116622018



Presented on : 15-12-2018
Registered on : 01-01-2019
Decided on : 09-04-2026
Duration : 7yrs, 3ms, 25days

Exh.18

**IN THE CITY CIVIL COURT AT DINDOSHI
(BORIVALI DIVISION), GOREGAON, MUMBAI**

SUMMARY SUIT NO. 6 OF 2019

Mr. Ramesh Kumar Hisaria,
of Mumbai, adult, Indian
inhabitant, aged about 63 years,
Having address at D/522, Visawa
Building, Govind Nagar, Malad (East),
Mumbai- 400 097.

.....Plaintiff

Vs.

Shyamji Ratansingh Bhanushali,
of Mumbai, adult, Indian inhabitant,
aged about __ years, Age not known,
Flat no.1920, 19th Floor, K.D. Height,
Building No.13, Khot Dongri,
Opp. Laxmi Narayan Temple,
Malad (East), Mumbai- 400 097.

.....Defendant

Appearances-

Adv. Manoj Pandey, the Ld. Counsel for plaintiff.
Defendant proceeded ex-parte.

**Coram : His Honour Judge,
Shri.Rajendra.V. Lokhande
(C.R.No.02)
Date : 9th April, 2026**

JUDGMENT

This is summary suit for recovery of an amount of Rs.8,42,338/- with interest @ 24% p.a.

2. Briefly stated, the plaintiff's case is as under:-

That he has friendly relations with the defendant, therefore the defendant approached him for financial help of Rs.1 Lakh. On 05/05/2014 he paid an amount of Rs.1 Lakh to the defendant as financial help by cheque. Accordingly on the same day defendant executed writing and issued cheque no.020032 dated 05/11/2024 towards repayment of friendly loan. The defendant agreed to repay the said amount on or before 05/11/2014. However, in month of November 2014, the defendant got extended time for repayment and issued fresh cheque no.018548 for repayment of Rs.1 Lakh. The defendant also took another friendly loan of Rs.4 Lakhs from him. In month of September 2014 the plaintiff paid the sum of Rs.2 Lakhs by cheque no.014200 and Rs.2 Lakhs by cheque no.014203 dated 29/09/2014. On the same day the defendant gave writing on stamp paper. However, the defendant did not allow him to deposits cheques till 05/02/2016. Thereafter, the plaintiff deposited the three cheques in bank but they returned dishonored with remark as "Drawer signature differ". He issued demand notice and thereafter filed complaint under Section 138 of Negotiable Instruments Act, 1881 before 43rd Metropolitan Magistrate Court,

Borivali. The defendant replied the demand notice and admitted loan of Rs.5 Lakhs but denied that the cheques were issued by him in discharge of liability. The defendant has not paid the said amount of Rs.5 Lakhs to him. Thus, the amount of Rs.8,42,338/- including the interest is due by the defendant to the plaintiff. Hence, this suit.

3. The suit is set ex-parte against the defendant.

4. The following points arise for determination and their findings with reasons thereof are as under:-

<u>Sr. No</u>	<u>POINTS</u>	<u>FINDINGS</u>
1)	Whether the defendant is liable to pay amount of Rs.8,42,338/- to the plaintiff?	Partly affirmative.
2)	Whether the defendant is liable to pay the interest @ 24% p.a. on amount of Rs.8,42,338/- from the date of suit till realization of the whole decretal amount?	Partly affirmative.
3)	What order & decree?	Suit is partly decreed with proportionate costs.

REASONS

As to point no.1 and 2 :

5. To demonstrate his case, the plaintiff has examined himself as PW-1 by filing affidavit of examination in chief at Exh.6. In addition

of it, he has relied upon following documents.

Sr. No.	Exhibit No.	Description
1	Exh.8	Original writing dated 05.05.2014.
2	Exh.9	Original writing dated 29.09.2014.
3	Exh.10	Three original Cheques.
4	Exh.11	Original bank return memos issued by my bankers.
5	Exh.12	Original office copy of notice dated 12.02.2019 and original postal receipt issued by postal authorities dated 13.02.2016.
6	Exh.13	Original reply letter dated 27.02.2016.
7	Exh.14	Letter of March, 2016 alongwith certified copy of Statement of the Defendant dated 02.03.2016.
8	Exh.15	Copy of Judgment since it is certified.

6. The Learned advocate for the plaintiffs has filed his written argument at Exh.17 and has orally argued inconsonance with pleading of plaintiffs and the documents filed on record as above.

7. PW 1 Ramesh has deposed inconsonance with plaint. From his evidence, it emerges that PW 1 Ramesh had given friendly loan of Rs.5 Lakhs to the defendant by cheques. The defendant is convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (Exh.15). In reply notice at Exh.13 the defendant has admitted that he has accepted friendly loan of Rs.5 Lakhs from the plaintiff, but he denied execution of any writings. According to defendant, he has repaid Rs.2,25,000/- to the plaintiff. However, the

defendant did not appear in this suit and challenged the evidence of the plaintiff and did not lead evidence above payment of Rs.2,25,000/- to the plaintiff. In the fact and circumstances, there is no reason to disbelieve evidence of PW 1 Ramesh that the defendant is liable to pay an amount of Rs.5 Lakhs to the plaintiff.

8. The plaintiff has claimed an interest of 24% p.a. on friendly loan of Rs.5 Lakhs. The said high rate of interest cannot be claimed upon friendly loan. There is no written agreement about rate of interest between the parties. In the circumstances, as per sec. 34 of the CPC, the plaintiff is entitled for interest @ 6% p.a. from the date of suit till actual realization of whole amount of Rs.5 Lakhs. Thus, it is held that the defendant is liable to pay an amount of Rs.5 Lakhs to the plaintiff with interest @ 6% p.a. from the date of suit till actual realization of whole amount of Rs.5 Lakhs. Hence, the point no.1 and 2 are answered in partly affirmative.

As to Point No.3 :-

9. In the result suit succeeds partly and the following order is passed:

ORDER

- 1) The suit is partly decreed with proportionate costs.
- 2) The defendant is directed to pay an amount of Rs.5,00,000/- (Rupees Five Lakhs Only) with interest @ 6% p.a. from the date of suit till actual realization of whole amount of Rs.5,00,000/- (Rupees Five Lakhs Only), to the plaintiff within two months from the date of this order.

3) Decree be drawn up accordingly.

Judgment declared and pronounced in open Court.

Date : 09.04.2026

(Rajendra.V. Lokhande)

Judge
City Civil Court,
(Borivali Division),
Dindoshi, Goregaon,
Mumbai

Date of dictation on Computer : 09.04.2026

Checked & signed by HHJ on : 09.04.2026

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL
SIGNED JUDGMENT/ORDER”

Date : 09.04.2026

Time : 6.04 p.m.

UPLOAD DATE AND TIME

Mrs. Jyoti S. Gole

(Stenographer Grade-I)

NAME OF STENOGRAPHER

Name of the Judge (with Court
room no.)

**HHJ Shri. Rajendra V. Lokhande
(Court Room No. 2)**

Date of Pronouncement of
JUDGMENT/ORDER 06.04.2026

09.04.2026

JUDGMENT/ORDER signed by P.O.
on

09.04.2026

JUDGMENT/ORDER uploaded on

09.04.2026