

KABC0B0014522022



<i>Form No.9 (Civil Title sheet for Judgment in Suits K.P. 91)</i>	IN THE COURT OF Vth ADDL. SMALL CAUSES JUDGE AND XXIVth A.C.M.M. Court of Small Causes, Mayo Hall Unit, Bangalore. (SCCH.20)
--	---

Present: Sri. P. Shivaraj,
B.Com. LL.B.
Vth Addl. Judge & 24th ACMM
SCCH-20, Mayohall Unit, Bangalore

Dated this the 3rd day of October 2023

S.C. No.15184/2022

Plaintiff:

: M/s Ramco Industries Limited
Having its corporate office at
Auras Corporate Centre
6th Floor, 98/A,
Dr.Radhakrishnan Road,
Mylapore,
Chennai -600004

Branch Office;
M/s Ramco Industries Limited
Represented by its Account
officer, Mr.M.Esawara Moorthy,
24, Residency Road,
Shabari Complex, 3rd Floor,
Bangalore – 560025.

**(By Sri.T.Patric Maria Raj,
Advocate)**

-/Vs/-

Defendant:

: Mr.Keshva Kumara
prop;

M/s Sri.Lakshmi Channa
keshavaswamy Traders, Sy
No.63,Channarayapatan Circle,
Kolar Road, Vijayapur-562135

(By KNB Law Associates)

**Date of Institution of
suit**

21.10.2022

Nature of Suit

: Recovery of Money

**Date of commencement
of recording of evidence**

: 09.02.2023

**Date of closure of
evidence**

: 05.07.2023

**Date on which the
Judgment pronounced**

: 03.10.2023

Total Duration

Year/s	Month/s	Day/s
00	11	12

(P. SHIVARAJ)

Vth Addl. Judge & XXIVth ACMM
SCCH-20, Mayohall Unit, Bangalore

-: J U D G E M E N T :-

The accounts officer of the plaintiff company has filed the suit against defendant for recovery of Rs.1,22,083/-.

2. Plaintiff case is as follows:

Plaintiff company is engaged in the business of manufacturing of fiber cement sheets and accessories.

Defendant is the proprietor of M/s Lakshmi Channakeshavaswamy Traders, a proprietary concern, and he is one of the plaintiff customer. Plaintiff has supplied and delivered the fibre cement sheets and accessories of worth Rs.1,22,083/- to the defendant as per the purchase orders placed by him. Defendant has failed to pay aforesaid amount. In order to pay the aforesaid due amount defendant has issued the cheque bearing No.292067 dated 16.12.2019 for Rs.1,22,083/- in favour of the complainant company which is drawn on Karnataka Bank Vijiyapura Branch.

3. Plaintiff has presented the aforesaid cheque for en-cashment as per the instructions of the defendant, but the aforesaid cheques dishonored for the reason "Funds Insufficient" in the bank account of the defendant. Further Plaintiff requested the defendant to clear the due amount, but defendant has failed to comply the same. Plaintiff got issued the legal notice on 13.02.2020 to the defendant with a request and demand to pay the due amount. The said notice served to the defendant, the defendant has not

complied the request made therein. Hence, plaintiff has come up with this suit.

4. After the institution of this suit, summons served to the defendant, he appeared through his counsel and has not chosen to file the written statement, hence written statement of the defendant is taken as not filed.

5. In order to prove the case, the accounts officer of the plaintiff company examined himself as PW-1 and he produced and marked 8 documents which are at Ex.P-1 to P-8. Cross examination of PW-1 taken as nil as defendant has not filed the written statement.

6. I have heard the arguments from the learned counsel appearing for the plaintiff and perused the entire record.

7. On the basis of the above pleadings, the following points arise for my consideration :

-.POINTS:-

- 1. *Whether the plaintiff company proves that defendant is due to pay Rs.1,22,083/- along with interest thereon as alleged in the plaint?***
- 2. *Whether the plaintiff is entitled to the relief as sought for?***
- 3. *What Order or decree?***

8. After carefully going through the materials available on record and taking into consideration of the facts and circumstances of the case, my findings to the above points are in the following:

Point No.1: In the Affirmative.

Point No.2: In partly Affirmative.

**Point No.3: As per final order,
for the following:**

REASONS

9. POINT No.1:- According to PW-1, he is the accounts officer of the plaintiff company. Ex.P.1 is the authorization letter, the recitals therein reveals that PW-1 is the authorized person to represent the complainant company and to depose on its behalf.

10. PW-1 reiterated the plaint averments in his examination-in-chief affidavit. Ex.P2 is the ledge account of defendant, maintained by the plaintiff during course of its business. The entry therein reveals that the defendant is due to pay Rs.1,23,380/-. Ex.P.6 is the cheque issued by the defendant, Ex.P.7 is the cheque return memo. The aforesaid documents establishes that defendant is due to pay the amount as alleged by the plaintiff. The aforesaid documents corroborates with plaint averments and oral testimony of PW-1. ExP.3 is the office copy of the notice issued to the

defendant, Ex.P.5 postal acknowledgment, it shows that notice served to the defendant and he has not paid the due amount.

11. If the version of the plaintiff is far away from the truth, defendant could have tendered his written statement and documents to establish that he has repaid entire amount to the plaintiff. Defendant could have cross examined the PW-1 to destroy the plaintiff version. Defendant has not chosen to comply the same. His abstinence before this court and his conduct that is not chosen to file the written statement and not opting for cross examination of PW-1 fortifies the plaintiff version. The evidence relied on by the plaintiff remains un-impeached and un-rebutted and same cannot be doubted and deserves to be accepted. There is no material on record to disbelieve the version of the plaintiff. Considering facts and attending circumstances of the case and by considering conduct of the defendant and by considering the evidence placed on record and with the aforesaid discussion, I am answering this point in **affirmative**.

12. POINT No.2:- plaintiff has not established that the defendant has agreed and liable to pay the interest on the due amount as claimed in the plaint, in as much as plaintiff is

not entitled for the interest, accordingly, I am answering this point **Partly in the Affirmative. .**

13. POINT No.3:- In view of the aforesaid reasons and discussion, I proceed to pass the following:-

ORDER

Suit of the plaintiff is partly decreed with cost.

Defendant is directed to pay Rs.1,22,083/- along with interest @ 6% p.a to the plaintiff company from the date of filing of this suit till realization

Draw decree accordingly.

(Dictated to the stenographer and transcribed and computerized by him, corrected by me and then pronounced by me in the open court on 3rd day of October, 2023).

(P. SHIVARAJ)
Vth Addl. Judge & 24th ACMM
SCCH-20, Mayohall Unit, Bangalore

ANNEXURES:

1) List of Witnesses Examined on behalf of the Plaintiff:

PW.1 : M.Eswara Moorthy

2) List of exhibits marked on behalf of the Plaintiff:

Ex.P-1 : Authorization letter
Ex.P-2 : Customer ledger account
Ex.P-3 : Legal notice
Ex.P-4 : Postal receipt

Ex.P.5	:	Postal Acknowledgment
Ex.P.6	:	Cheque
Ex.P.7	:	Bank Endorsement
Ex.P.8	:	Bank return memo

3) List of Witnesses Examined on behalf of the Defendant:-

-NIL-

4) List of exhibits marked on behalf of the Defendant:-

-NIL-

(P. SHIVARAJ)
Vth Addl. Judge & 24th ACMM
SCCH-20, Mayohall Unit, Bangalore