MHRG140014262016	Presented On	01/04/2017
	Registered on	01/04/2017
	Decided on	10/08/2026
	Duration	YY – MM – DD 09 04 09

<u>IN THE COURT OF CIVIL JUDGE JUNIOR DIVISION, AT URAN,</u>
<u>TQ- URAN, DIST- RAIGAD.</u>

Regular Civil Suit No. 51/2017 **Exh. No. 31 /A**

SUIT FOR RECOVERY OF MONEY/VALUE OF GOLD ORNAMENTS AMOUNTING TO RS. 4,38,150/- WITH INTEREST

Plaintiff	**1. Prabhavati Nandkumar Bhagat** **Age – 50 Yrs., Occ. - Housewife,** **R/at – Vashigaon, Vashi, Navi Mumbai.**
Represented By	**Adv. Shri. M. M. Mokal**

Defendant	**1. Ramesh Laxman Pednekar,** Age: 52 years, Occ.- Business, R/at – Pednekar Jwellers, Shop No. 1, Pednekar Building, Uran Bazar Peth, opp. To St. Mary Highschool, Tal. Uran, Dist. Raigad.
Represented By	**None (Ex-parte)**

<u>JUDGMENT</u>

(Delivered on this 10th day of August, 2026)

1. The Plaintiff has instituted the present suit against the Defendant seeking recovery of a sum of Rs. 4,38,150/- (Rupees Four Lakhs Thirty-Eight Thousand One Hundred and Fifty Only) representing either the return of gold ornaments or their prevailing market value, along with interest at the rate of 18% per annum from the date of the transaction till realization, and costs of the suit.

2. **BRIEF FACTS OF THE CASE:**

The facts of the case, as pleaded by the Plaintiff, are as follows: The Plaintiff resides at Vashi Gaon, Navi Mumbai. The Defendant runs a business of manufacturing and selling gold and silver ornaments under the name and style of 'Pednekar Jewellers' at Shop No. 1, Pednekar Building, Bazar Peth, Uran. The Plaintiff had a prior acquaintance with the Defendant. The Plaintiff desired to melt two old gold 'ganthan' ornaments weighing 21.510 grams and 79.570 grams (totaling 101.080 grams) to prepare a new gold 'Kanthi' (Lakshmi Haar) of the same weight. Additionally, she wanted to purchase and manufacture a new gold 'Mangalsutra' weighing 5 tolas (50.000 grams). On 12.08.2012, the Plaintiff approached the Defendant's shop and placed an order for the manufacture of the new ornaments. The Defendant weighed the two old 'ganthan' ornaments, which registered a total weight of 101.080 grams. The Defendant agreed to melt these ornaments and manufacture the new 'Kanthi' of 101.080 grams. For the new 'Mangalsutra' of 50.000 grams, the Plaintiff deposited an advance amount of Rs. 1,50,000/- with the Defendant to purchase the required gold. At the time of the transaction, the market rate of gold was Rs. 30,650/- per 10 grams (1 tola). The Defendant quoted making charges of Rs. 19,250/- and bead/stone charges of Rs. 2,500/-, and issued receipts/orders. Order No. 766 was generated on 12.08.2012. The promised delivery date for the completed ornaments was 02.09.2012. It was agreed that any balance due based on final weight differences would be settled at delivery.

3. However, the Defendant failed to deliver the manufactured ornaments on the promised date or anytime thereafter. Upon continuous

demands by the Plaintiff, the Defendant refunded an amount of Rs. 49,000/- on 10.04.2014 out of the Rs. 1,50,000/- cash advance. He failed to refund the balance advance of Rs. 1,01,000/- or return the old gold ornaments weighing 101.080 grams (valued at Rs. 3,37,150/- based on prevailing market rates). Subsequently, the Plaintiff learned that the Defendant had shuttered his shop and defrauded several other customers. A criminal complaint (C.R. No. I-118/2014) was registered against the Defendant under Sections 406 and 420 of the Indian Penal Code at Uran Police Station on 23.07.2014 by another aggrieved customer, Damyanti Narayan Koli. Aggrieved customers formed an association, staged protests, and held demonstrations in front of the shop. Despite local leaders trying to mediate, the Defendant only gave false assurances. The Plaintiff computes the total amount due from the Defendant as Rs. 4,38,150/- (Rs. 3,37,150/- being the value of old gold and Rs. 1,50,000/- being cash advance, less Rs. 49,000/- returned). Having no other recourse, the Plaintiff has instituted this suit for recovery of the outstanding amount with interest.

4. The summons of the suit was duly served upon the Defendant. Despite service, the Defendant did not appear before the Court, nor did he file any Written Statement. Consequently, vide order dated 01.07.2026, the suit was ordered to proceed ex-parte against the Defendant under the provisions of Order IX, Rule 6 of the Code of Civil Procedure, 1908.

5. On the basis of the pleadings of the Plaintiff, the following points arise for my determination to which I have recorded my findings against them for the reasons mentioned thereunder:

Sr. No.	**ISSUES**	**FINDINGS**
1.	Whether the Plaintiff proves that she handed over old gold ornaments weighing 101.080 grams and paid cash of Rs. 1,50,000/- to the Defendant on 12.08.2012 for preparing new gold ornaments?	**In the Affirmative.**
2.	Whether the Plaintiff proves that the Defendant refunded only Rs. 49,000/- and failed to return the remaining amount or the gold ornaments, thereby making him liable to pay Rs. 4,38,150/-?	**In the Affirmative.**
3.	Whether the Plaintiff is entitled to recover the sum of Rs. 4,38,150/- along with interest?	**In the Affirmative (with modification in rate of interest).**

4.	What order and decree?	**As per the final order for the reasons recorded below.**

<u>R E A S O N S</u>

<u>AS TO POINT NOS. 1 TO 3:</u>

6. Since these points are interconnected, they are being discussed together for the sake of brevity and to avoid repetition of facts. To substantiate her case, the Plaintiff examined herself as PW-1 by filing her Affidavit of Evidence at Exhibit 24. In her affidavit, the Plaintiff has reiterated the entire factual matrix set out in her plaint. She deposed that she handed over two old gold 'ganthan' ornaments weighing 21.510 grams and 79.570 grams (totaling 101.080 grams) to the Defendant to make a new 'Kanthi' (Lakshmi Haar) of equivalent weight. She also deposed that she paid Rs. 1,50,000/- as a cash advance to the Defendant to purchase gold for making a new 'Mangalsutra' weighing 50.000 grams. She stated that the gold rate agreed upon was Rs. 30,650/- per 10 grams.

7. The oral testimony of PW-1 is strongly supported by the documentary evidence placed on record, which has been exhibited as follows:

(a) Exhibit 27: A cash receipt dated 12.08.2012 issued by 'Pednekar Jewellers Pvt. Ltd.' to Prabhavati Bhagat. It records the rate of gold as Rs. 30,650/- and notes the receipt of Rs. 1,50,000/- (comprising Rs. 90,000/- in cash and Rs. 60,000/- by cheque) towards the purchase of 50.000 grams of gold valued at Rs. 1,53,250/-, leaving a nominal balance of Rs. 3,250/-. This document conclusively proves the transaction and the deposit of the cash advance of Rs. 1,50,000/-.

(b) Exhibit 28: Order Slip No. 766 dated 12.08.2012 issued by 'Pednekar Jewellers Pvt. Ltd.' to Prabhavati Bhagat. It acknowledges the receipt of old gold weighing 79.570 grams for the manufacture of a Kanthi. It specifies the making charges of Rs. 19,250/- and stone charges of Rs. 2,500/-, and sets the delivery date as 02.09.2012. It bears the signatures of the Plaintiff and the Defendant. This document validates the receipt of 79.570 grams of old gold.

(c) Exhibit 29: Order Slip No. 767 dated 12.08.2012 issued by 'Pednekar Jewellers Pvt. Ltd.' to Prabhavati Bhagat. It acknowledges receipt of another old gold ornament ('ganthan') weighing 21.510 grams. It records making charges of Rs. 7,000/- and gold rate of Rs. 30,650/-. It bears the signature of the Defendant. The signature of the customer is recorded as 'P.A. Mhatre', which is consistent with family transactions where a relative signs on behalf of the customer.

8. Cumulatively, Exhibits 28 and 29 prove that the Defendant received old gold ornaments weighing a total of 101.080 grams (79.570 grams + 21.510 grams) from the Plaintiff. Exhibit 27 establishes the receipt of Rs. 1,50,000/- towards the purchase of new gold.

9. PW-1 further deposed that the Defendant failed to deliver the manufactured ornaments. When pressured, the Defendant returned only Rs. 49,000/- in cash on 10.04.2014, and failed to return the remaining balance of the cash advance or the old gold ornaments. This part-payment of Rs. 49,000/- is a crucial fact. Under Section 19 of the Limitation Act, 1963, a part-payment made towards a debt before the expiration of the limitation period creates a fresh period of limitation from the date of such payment. The transaction was dated 12.08.2012, the promised delivery was 02.09.2012, and the part-payment was made on 10.04.2014. The present suit was filed on 01.04.2017, which is well within three years from the date of the part-payment (10.04.2014). Hence, the suit is within the period of limitation.

10. The Defendant chose not to appear before this Court, did not file any Written Statement, and did not cross-examine the Plaintiff's witness. Under Order VIII, Rule 5 of the Code of Civil Procedure, 1908, every allegation of fact in the plaint, if not denied specifically or by necessary implication, shall be taken to be admitted except as against a person under disability. Since the Defendant failed to enter an appearance

or contest the suit, the oral and documentary evidence adduced by the Plaintiff remains entirely unchallenged, uncontroverted, and deemed admitted.

11. The Plaintiff has successfully established that the Defendant is in possession of old gold weighing 101.080 grams (valued at Rs. 3,37,150/-) and the balance advance amount of Rs. 1,01,000/- (Rs. 1,50,000/- less Rs. 49,000/-). Thus, the Defendant is legally liable to pay the total outstanding sum of Rs. 4,38,150/- to the Plaintiff.

12. As regards interest, the Plaintiff has claimed interest at the rate of 18% per annum from the date of the transaction till realization. Although the transaction is of a commercial nature, the interest rate of 18% per annum appears to be excessive and penal. Under Section 34 of the Code of Civil Procedure, 1908, the Court has the discretion to award reasonable interest. In the interest of justice, a pendente lite and future interest at the rate of 9% per annum on the principal amount of Rs. 4,38,150/- is deemed just, fair, and reasonable. Therefore, Point Nos. 1 and 2 are answered in the Affirmative, and Point No. 3 is answered in the Affirmative with the modification that the Plaintiff is entitled to interest at 9% per annum.

AS TO POINT NO. 4:

13. In view of my findings on Point Nos. 1 to 3, the suit of the

Plaintiff deserves to be decreed with costs. Hence, I proceed to pass the following order:

<u>O R D E R</u>

1. This Regular Civil Suit No. 51 of 2017 is hereby decreed with costs.

2. The Defendant is directed to pay to the Plaintiff the sum of Rs. 4,38,150/- (Rupees Four Lakhs Thirty-Eight Thousand One Hundred and Fifty Only) along with interest at the rate of 9% per annum from the date of filing of the suit (i.e., 01.04.2017) till its actual realization.

3. Decree be drawn up accordingly.

(Judgment pronounced in open court.)

SANTOSH PUNDLIKRAO WANKHADE

Digitally signed by SANTOSH PUNDLIKRAO WANKHADE
Date: 2026.08.10 17:54:00 +0530

Date: 10/08/2026

S. P. Wankhade
Civil Judge Junior Division, Uran,
Tq- Uran, Dist- Raigad.

CERTIFICATE

I affirm that the contents of this PDF file Judgment are same word to word as per the original Judgment.

Name of Stenographer	:	Rasika P. Mhatre
Name of Court	:	CJJD & J. M.F. C., Uran (Court No.1)
Date	:	10/08/2026
Judgment signed by the Presiding Officer on	:	10/08/2026
Judgment/Order uploaded on	:	10/08/2026
