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EXH..19

**IN THE COURT OF ADDITIONAL JUDGE,
SMALL CAUSES COURT, AT RAJKOT.**

Small Civil Suit No. 25/2018

Marwadi Shares & Finance Ltd.
(Regd. Under Companies Act)
Through : its Collection Officer,
Shri Dharendra Narendrabhai Dhotre
Hindu, Aged about 30 years,
Occu : Service,
Regd. Office : Marwadi Financial Plaza,
Nana Mava Main Road,
Near 150 Feet Ring Road
Rajkot.

.....Plaintiff

V/s.

Damayanti M. Cheta
Hindu, adult, Business
Resi. Of "Shivam",
1, Jalaram Plot,
Marg No.3, University Road
Rajkot.

.....Defendant.

Shri K.M. Patel, Ld. Advocate for the plaintiff.
Defendant- Ex-parte

Suit For recovery of Rs.18,150/-

// J U D G M E N T //

1. The facts of the plaintiff's suit in nut shell are to be stated as under :

That the plaintiff is carrying out its business in the name of Marwadi Shares & Finance Ltd. at Rajkot and mainly doing business of sale & purchase of shares. That the present defendant is registered as Client of Company by Trading Account vide Client I.D. No. 10424904 and at that time, the defendant has provided necessary details and KYC Form to the plaintiff. That the plaintiff is maintaining Ledger accounts and Rs. 18,150/- is remaining outstanding due from the defendant. That the plaintiff has sent notice through E-Mail and through the Advocate, but the defendant has not paid the due amount or not replied the notice. Thus, cause of action arose for the plaintiff to institute this suit against the defendant for recovery of Rs.18,150/- together with interest at the rate of 24% per annum from the date of filing of this suit till actual realization of amount.

2. The defendant is duly served vide Ex. 5 but neither he remained present before the Court nor submitted any application and, therefore, according to order dated 22-01-2018 passed below Exh.1, suit was ordered to be proceeded ex-parte against the defendant.
3. In support of this suit, the plaintiff has produced following oral as well as documentary evidence for proving its case.

Oral Evidence

1	Affidavit of Mr. Dhirendra Narendrabhai Dhotre	Ex.7
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Documentary Evidence

Sr.	Details of Documents	Ex.No.
1	Letter of Authority	Ex.9
2	Board Resolution	Ex.10
3	Agreement between the parties	Ex.11
4	Ledger of the defendant	Ex.12
5	Statement of Computer Trading account	Ex.13
6	Dispatch details received list	Ex.14
7	Legal Notice to the defendant	Ex.15
8	Receipt regarding payment of postal dept	Ex.16
9	Acknowledgment Receipt	Ex.17
10	Closing pursis	Ex.18

4. On the other hand, the defendant has not produced any evidence in support of their defence.

5. The following issues are framed for the determination vide Exh.6:

- 1 Whether the plaintiff proves that Rs.18,150/- is due as outstanding from the defendant with interest at the rate of 24% per annum ?
- 2 Whether the suit is within the limitation ?
- 3 What order and decree?

6. My findings of points for determination are as under.

- 1 Partly in the affirmative
- 2 In the affirmative
- 3 As per final order.

REASONS

POINT NO.1 and 2.

7. All the points are inter connected with each other and to avoid the repetition both discussed jointly. On behalf of the plaintiff, Mr. Dhirendra Narendrabhai Dhotre has been examined at Ex.7. On appreciation of his oral evidence, it is undoubtedly showing that the present defendant is registered as Client of Company by Trading Account vide Client I.D. 10424904 and at the relevant time, the defendant has provided necessary details and KYC Form to the plaintiff. That the plaintiff is maintaining Ledger accounts and Rs.18,150/- is remaining outstanding due from the defendant. Further, it transpires from the documents Exh.9 to 17 that amount is due from the defendant with interest. Further, defendant was duly served but he did not choose to remain present and hence, order to proceed the suit ex-parte against the defendant has been passed below Ex.1. Further, having perused the statement of account of the defendant, maintained by the plaintiff in his ledger, he has claimed the closing balance of last transaction which occurred on 05-09-2017 and from date of last transaction to date of filing of the suit i.e. dated 02-01-2018, it appears that the suit is within the time of limitation. So, evidence of the plaintiff-company remains unchallenged till today. There is no reason to disbelieve the evidence of the plaintiff-bank and plaintiff succeed in discharging burden of proof under Section 101 of the Indian Evidence Act, 1872.
8. Further, considering the aforesaid documentary evidence, it appears that Rs.18,150/- is outstanding from the defendant. Moreover, the plaintiff has claimed the interest

at the rate of 24% per annum but the same is on higher side and hence considering the present rate of interest of Nationalized bank, the plaintiff is entitled to get interest at the rate of 7% per annum. Therefore, the suit of the plaintiff deserves to be partly decreed with interest at the rate of 7% per annum and costs. Hence, my finding on point No.1 to 2 accordingly, and in the interest of justice, I pass the following final order.

// O R D E R //

The present suit is hereby partly decreed with cost.

The defendant is hereby ordered to pay Rs.18,150/- (Rupees Eighteen thousand, One hundred fifty only) with interest at the rate of 7% per annum from the date of institution of suit till payment of decretal amount.

The defendant do bear his own costs and the cost the plaintiff.

Decree to be drawn accordingly.

Signed and Pronounced in the open court today on this 29th day of January, 2018.

R A J K O T

DATE :29-01-2018

(Ms. Sonal B. Mehta)

Additional Judge,
Small Causes Court
Rajkot

UIC No.GJ00737