

Suit instituted on	10	07	2024
Registered on	10	07	2024
Decided on	25	10	2024
Duration	Y.	M.	D.
	00	03	15

EXH. NO.21

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

Small Civil Suit No. 737/2024

Plaintiff:-

**Jay Mahakali Credit Corporation
registered under Money Lending Act.
Jagdishbhai Lavjibhai Ramani**

Address:-

**Riddhi Siddhi Society, Nr. Nala,
Kothariya Ring Road,
Bajarang Industry area Main Road,
Rajkot.**

Versus.

defendant-

Abhilashbhai Manubhai Bagda,

ADDRESS:

Ghanshyamnagar-3, Nr. Dipak Dairy,
Shamji Pol, Kothariya Road,
Rajkot-360002.

P.V.Gaddhariya Learned Advocate for the plaintiff.
The suit proceed against the defendant as an ex-
partes.

Sub:Suit For recovery of an amount of
Rs.5,62,744/-

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

1. The facts of the plaintiff suit can be narrated as under.

That the plaintiff has filed the present suit to recover an amount of Rs.5,62,744/- from the defendant. It is averred by the plaintiff that the plaintiff firm is registered under Gujarat Money Lending Act-2011 having license vide Reg. No.GMLRAJ2425000001 at above mentioned address.

Further, the defendant had approached to the plaintiff in need of money and after giving the identification of him, the defendant had availed

the loan amount of Rs.2,00,000/- on 12/06/2017 for his personal use and also accept the all conditions of the loan as well. Moreover, as per the loan agreement, the defendant have to pay total 24 equal installments of Rs.11,335/- but the defendant has not paid the loan amount to the plaintiff and as per the account ledger of the defendant on 29/02/2024, the defendant is outstanding to pay total amount Rs.5,62,744/-. Further, the plaintiff gave several reminders to the defendant but the defendant did not gave any satisfactory response to the plaintiff and therefore, the plaintiff had issued a legal notice to the defendant on 01/04/2024 and which was duly served to the defendant but the defendant has neither replied the notice nor paid the outstanding amount to the plaintiff. Therefore, the plaintiff constrained to file the present suit.

2. The defendant is duly served with summons and

in response to the same, the defendant did not remain present before the Court. Thereafter, this Court has passed an order to proceed the suit against the defendant as an ex-parte on 12-08-2024 under Order-9 R-6 (1) of the C. P. C.

4. In support of the suit, the plaintiffs have produced the following kind of evidence.

ORAL EVIDENCE

No	Name of Witness	Exh. No
1	An affidavit of the plaintiff's witness Jagdishbhai Lavjibhai Ramani	8

DOCUMENTARY EVIDENCE

No	Documents	Exh. No.
1	Registration certificate of plaintiff firm	10
2	Loan application form filled by defendant	11
3	Promissory note	12
4	Statement Form No.11 regarding conditions of the loan.	13
5	Disbursement receipt	14
6	Declaration by defendant regarding money lend	15
7	Copy of account ledger of defendant	16
8	Legal notice given to the defendant	17

9	Reg. A.D. Receipt	18
8	Online track report of postal department	19

5. Heard arguments of learned advocate for the plaintiff and he has vehemently argued on the averments made in the plaint and contended that looking to documentary evidence produced by the plaintiff, the plaintiff has succeeded to prove their case and the defendant did not appear before the court and Hence, Hon'ble Court has passed order to proceed the suit against the defendant as ex-parte.

6. The following issues have been framed at **Ex.7** for determination of the suit.

1	Whether the plaintiff proves that Rs.5,62,744/- is due outstanding amount from the defendant?
2	Whether the plaintiff is entitled for the interest? If yes, at what rate ?
3	Whether plaintiff proves that suit is within the limit?
4	What order and decree?

Issue No.1:-

Having carefully gone through plaint and the documents produced at **Ex.10 to 19** as mentioned above. The plaintiff stated that before filing of this suit, the notice has been served to the defendant and during notice period, the defendant has not paid due amount. Further he has state that notice under procedure of suit has been duly served to the defendant and after service of notice, the defendant is neither appeared personally nor appeared through his advocate and therefore, an order has been passed against the defendant to proceed the suit as an exparte. Further he has stated that as per provisions of C. P. C., when the defendant is not appeared before the court, then it can be said that the defendant has admitted the pleading of suit as well as documents under procedure of suit and therefore, decree requires to be passed in favor of the plaintiff. Thus, considering the arguments advanced by learned advocate for the plaintiff and considering the averments in the plaint as well as documentary

evidence as discussed above and after service of summons to the defendant, it appears that the defendant is not entered to defend the present suit within the time prescribed under law. Thus, it is presumed that defendant are admitting the claim as mentioned in the suit. Therefore, in view of above, there is no reason to disbelieve the documentary evidence produced by the plaintiff at **Ex.10 to 19** which are supported the averments made in the plaint and accordingly, the plaintiff has proved that plaintiff is entitled to recover outstanding amount of **Rs.5,62,744/-** from the defendant. Hence the issue No.1 has proved by the plaintiff through his oral evidence as well as documentary evidences, therefore issue No.1 is comes in **"Affirmative"**.

Issue No.2:-

Looking to the facts of the case and averment made in the plaint as well as evidences produced by the plaintiff that relief clause para-8 (1) of plaint, plaintiff has demanded interest at the rate @18% P.A. of on suit amount, but looking to the evidences produced by the plaintiff at Exh.13 of Statement

regarding conditions of the loan, there is clearly mentioned the interest rate @18% P.A. and which is accepted by the defendant, therefore, the plaintiff is entitled to get interest rate of **18% P.A.** on due amount and accordingly. Therefore, the issue No.2 is **"Affirmative"**.

Issue No.3:-

Looking to the documentary evidence submitted by the plaintiff it transpires that the suit of the plaintiff is within the limitation. Hence, the issue No.3 is **"Affirmative"**.

By observing the documentary and oral evidence submitted by the plaintiff, plaintiff succeeding the suit and plaintiff has prove issue No.1 to 3 by his evidence and therefore, plaintiff is entitle to get relief prayed in the plaint. Hence, the plaintiff is entitled to get outstanding amount of **Rs.5,62,744/-** from the defendant and in view of above discussion and considering the facts of the plaint, plaintiff suit is required to allow. I pass the following final order in the interest of justice.

// O R D E R //

- (1) The present suit of the plaintiff is hereby partly allowed.
- (2) The defendant is hereby liable to pay an amount of **Rs.5,62,744/-** (Rupees Five Lakh Sixty Two Thousand Seven Hundred Forty Four only) with an interest **18% p.a** to the plaintiff from the date of filing of this suit till payment of decreed amount.
- (3) The defendant is ordered to bear their own cost and cost of the plaintiff.
- (4) Decree to be drawn accordingly.

Signed and Pronounced in the open court today on this **25th day of October 2024.**

Date: 25/10/2024
Place : Rajkot

(Nitinchandra N. Dave)
Additional Judge,
Small Cause Court,
Rajkot.
UID - GJ01069