



GJRJ250010292025

Received on	24	06	2025
Registered on	24	06	2025
Decided on	30	01	2026
Duration	Y.	M.	D.
	0	7	6

EXH. 26

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

Summary Suit No.613/2025

(Suit under the provisions of O.37 R.2 of C.P.C)

Plaintiff:-

SHINING TOOLS,

It's authorized person,

SHRI DILIPBHAI BHUPATBHAI CHAUHAN

Address:-

**Shreeji Estate-1, Shed No.2,
Rani Industrial Area,
B/h. Parin Furniture,
National High Way 8-B Vavadi,
Rajkot.**

Versus.

defendants-**1) Mayank Patet**

managing director of,

"Mayank Brasfit Private Limited",**Address:**5-B, Swapnil Avenue, Palace Road,
Jamnagar.**2) Mayank Brasfit Private Limited,****ADDRESS:**5-B, Swapnil Avenue, Palace Road,
Jamnagar.

R.K.PATEL Learned Advocate for the plaintiff.

defendant remained absent, though duly served.

Sub:Suit For recovery of an amount of
Rs.1,70,014/-**under the provisions of O.37 R.2. of C. P. C.****// 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 under the provisions of Order-37 R. 2 of C.P.C. to recover an amount of **Rs.1,70,014/-** from the defendants. It is averred by the plaintiff that the plaintiff company is registered company under Companies Act on above mentioned address with name of "Shining Tools Ltd." and also making, selling, repairing and reprocessing of CNC and VMC machines carbide tools. The defendants are doing business production and selling of cartoons, box, cases, bags, paper board etc and the defendants had purchased goods from the plaintiff in amount of Rs.5,59,517/- and out of which, the defendants have paid the amount of Rs.3,89,503/- to the plaintiff and now the defendants have to pay outstanding amount of Rs.1,70,0140/- to the plaintiff but the defendants fails to pay the said

outstanding amount. Further, to recover the outstanding amount, the plaintiff has gave many reminders to the defendants but the defendant used to make different excuses every time and make fraud with the plaintiff. Further, to recover the outstanding amount, the defendants have issued a cheque bearing No.000229, Dtd.28/03/2023 of Rs.1,70,014/- of ICICI Bank to the plaintiff and make sure to receive the payment after deposit the said cheque, but after depositing the said cheque, the said cheque has been returned on 16/05/2023 with an endorsement of "Funds Insufficient". Therefore, the plaintiff had issues a legal notice to the defendants on 22/04/2025 and the said notice was also served to the defendants but the defendants have neither returned the said amount nor given any reply to the same, hence the plaintiff constrained to filed the present

suit.

2. It appears from the record that summons as provided under Order-37, rule-2, sub-rule 2 & 3 of the C.P.C. has been issued and as per said provisions, the defendants are required to appear within 10 days from the service of summons. In the present case, the summons has been served to defendants pursis produced at **Exh.6** and in response to the same, the defendants does not appear before the Court and not preferred an application for leave to defend. Therefore as per the provision of Order 37 Rule 3 (6) (a) Civil Procedure Code plaintiff became entitled for judgment.

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

Sr. No.	Description	Exh. No.
1	Cheque No.000229 given by the defendant	11
2	Cheque return memo	12

3	Invoice No.GT/22-23/5151	13
4	Invoice No.GT/22-23/5183	14
5	Account ledger of the defendants	15
6	Office copy of the legal notice sent to the defendants	16
7	Case receipt of legal notice sent to the defendant No.1	17
8	Track report of served notice to the defendant No.1.	18
9	Case receipt of legal notice sent to the defendant No.2	19
10	Track report of served notice to the defendant No.2.	20
11	GST Certificate of the plaintiff firm	21
12	Bank statement of plaintiff	22
13	Authority letter	23

4. 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 under provisions of O. 37 of C. P. C. and defendants did not appear before the court and thereby not preferred an application for leave to defend and therefore, he has urged to pass decree

in favour of the plaintiff under provisions of O. 37 of C. P. C.

5. Having carefully gone through plaint and the documents produced at **Ex. 11 to 23** as mentioned above. The plaintiff Firm's Proprietor stated that before filing of this suit, the notice has been serve to the defendants and during notice period, the defendants have not paid due amount. Further he has state that notice under procedure of summary suit has been duly served to the defendants and after service of notice, the defendants are neither appeared personally nor appeared through his advocate and therefore, plaintiff become entitle for judgment under Order 37 Rule 3 (6) (a) Civil Procedure Code. An order has been passed against the defendants to proceed the suit as an ex-parte. Further he has stated that as per provisions of C. P. C., when the defendants are not appeared before the court, then it can be said that the defendants

have admitted the pleading of suit as well as documents under procedure of summary 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 defendants, it appears that the defendants are not entered to defend the present suit within the time prescribed under law. Thus, it is presumed that defendants 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.11 to 23** which are supported the averments made in the plaint and accordingly, the plaintiff has proved his suit claim against the defendants under summary procedure. Looking to relief clause para- 11 (A) of plaint, plaintiff has demanded interest

at the rate of **18% p.a.** on suit amount, looking to the documentary evidences no any Contract regarding rate of interest has been executed between the Plaintiff and defendants therefore the said amount of an interest as claimed by the plaintiff is exorbitant and excessive and hence, considering prevailing rate of interest, it would just and proper to award **6%** interest on suit amount and therefore, the plaintiff is entitled to get an interest at the rate of **6% pa.** on due amount and accordingly, the defendant is liable to pay an amount of **Rs.1,70,014/-** to the plaintiff.

In view of above discussion and considering the provisions of O. 37 of C.P.C., nothing remains to proceed further, but decree is required to be drawn as prayed by the plaintiff under the provisions of O. 37 Sub Rule (3) R. 2 of C. P. C. Therefore, 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 allowed & decreed under Sub-rule (3) of Rule-2 of Order- XXXVII of C.P.C.

(2) The defendants are hereby liable to pay an amount of **Rs.1,70,014/-** (Rupees one lack seventy thousand fourteen only) with an interest **6% p.a** to the plaintiff from the date of filing of this suit till payment of decreed amount.

(3) The defendants are 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 **30th day of January -2026.**

Date : 30/01/2026 (Ms. Payal Girishgiri Goswami)
Place : Rajkot Additional Judge,
Small Cause Court,
Rajkot.
UID - GJ01361