

SMST-R/2066/2016

ORDER

ORDER BELOW EXH.1  
IN SUMMARY SUIT NO.2066 OF 2016

Mr. Y. C. Sheth, Learned Advocate for the Plaintiff.  
Defendants - Ex-parte.

**CORAM:- MR.ILYASBHAI KHAJMAHMADBHAI JANGAD, JUDGE.**

1 Originally this suit was filed in the City Civil Court, Ahmedabad and numbered as Summary Civil Suit No.18 of 2014. This suit came to be transferred to this court in view of the amendment in Presidency Small Causes Courts Act, 1882, which was published in Government Gazette Extraordinary, Part-IV dated 18.06.2015 raising the pecuniary jurisdiction of this court to Rs.Ten Lacs with effect from 2<sup>nd</sup> November, 2015, by its order below Exh.1 passed on 09.12.2015. Thereafter this case has been registered under the number as hereinabove given in this court.

2 The Plaintiff – State Bank of India has filed the suit against the defendants for recovery of Rs.4,78,768=07paise with interest under Order 37 of civil procedure code as summary suit.

3 On the institution of the suit, summons for appearance were issued to the defendants and the defendants have been served through R.P.A.D. on dtd.13/04/2014. However, the defendants have not appeared before the Hon'ble Court as party in person or through any advocate. The plaintiff has filed an application vide Exh.8 and 15 for passing ex-parte decree against the defendants. As the defendants have not appeared

before the Court. The plaintiff has produced documentary evidence vide list Exh.4 which are consisting (1) Copy of Loan Application, (2) Copy of agreement letter, (3) copy of personal loan agreement (4) copy of undertaking (5) copy of guarantee deed (6) copy of revival letter (7) copy of notice (8) copy of receipt of R.P.A.D. (9) Copy of undelivered envelop (10) Copy of statement.

4 In view of the Provision of Law, it is clear that if defendants failed to file appearance before the Court within a period of ten days from the date of service of summons upon him; the plaintiff shall entitled to decree U/o 37 rule 2(3) of Civil procedure code. As per record summons for appearance served to the defendants. Although, till today the defendants have not appeared before the Court. The plaintiff has produced documentary evidence on record. On perusing documentary evidence, the plaintiff's suit is within a period of limitation. The plaintiff has prayed for interest at the rate of 17.80% p.a. which is very high rate of interest. Looking to the economical scenario, the reasonable rate of interest should be apply and if on suit claim amount 8% interest p.a. should be awarded to the plaintiff - bank. It is just and proper in the interest of the justice, under such circumstances, I pass following order.

### ORDER

- 1 The plaintiff's suit is hereby allowed.
- 2 Decree of Rs.4,78,768=07paise is passed in favour of the plaintiff and against the defendants with interest at the rate of 08% p.a. From the date of suit till it's realization.

- 3 Defendants shall bear their own costs along with the plaintiff.
- 4 Decree to be drawn accordingly.

Pronounced and signed in open court today on 6<sup>th</sup> day of April, 2017.

Date:-06.04.2017.  
Ahmedabad.

(ILYAS KHAJMAHMADBHAI JANGAD)

Judge  
Code No.GJ00867  
Small Cause Court No.4,  
Ahmedabad.