MHCC010002152025

Presented on	06/01/2025
Registered on	06/01/2025
Decided on	18/02/2026
Duration	01Y: 01M: 12D

IN THE CITY CIVIL COURT AT MAZGAON, MUMBAI

SUMMONS FOR JUDGMENT NO.02 OF 2025
IN
SUMMARY SUIT NO.64 OF 2024

Jogani Constructions Ltd.]
A Company registered under the provisions of]
Companies Act 1956, Through One of its Director]
Mr. Ramesh Tikuchand Jogani, Age 60 years,]
Indian Inhabitant, Occupation-Business,]
having registered office at 301 Gundecha]
Chambers Nagindas Master Road, Fort,]
Mumbai 400 023.]
Mobile No.9820060395]
Email Id: ramesh.jogani@trec.online]**...Plaintiff**

VERSUS]

1. Sanghvi Constructions]
A Registered Partnership Firm]
Through its Managing And Executive Partner]
Having Principal Place of Business at]
1st floor, Sanjana Mansion, Near Nagina Hotel,]
Dr. B. A. Road, Byculla East Mumbai- 400 027.]
And having Office at Office No. 17-24, 1st floor,]
Building No. 32, Rajabahadur Mansion,]
Ambalal Doshi Marg, Opp BSE, Fort,]
Mumbai 400 023, also having office at 1st floor,]

104, Bharat House, Mumbai Samachar Marg,]
Above Laxmi Vilas Bank, Kala Ghoda Fort,]
Mumbai 400 001.]
Contact No.9867003311]
Email Id: accounts@sanghvigroup.co.in.]

2. M/s. Sanghvi Premises Pvt. Ltd.]
A company registered under the provisions of]
Companies At, Through its Managing and]
Executive Director, Having registered office at]
Office No.101, Sanjana Mansion, Near Nagina]
Hotel, Dr. B. A. Road, Byculla East]
Mumbai- 400 027.]
Contact No.9867003311]
Email Id: accounts@sanghvigroup.co.in.]

3. Mr. Nilesh Premji Satra]
Karta of Nilesh Premji Satra (HUF),]
Age unknown, Adult, Indian Inhabitant]
Residing at, B-2, Pradhan Sagar Hsg Ltd.]
Jivdaya Lane, Ghatkopar West,]
Mumbai-400 086,]
Contact details: Not known,]
Email: Not known.]**...Defendants**

Appearance :-

Ld. Adv. Paras Vira for plaintiff.

Ld. Adv. Aadil Parsurampuria with Adv. Ms. Tejasri Pania i/b. IC Legal for defendants.

CORAM : HHJ SHRI SANGRAM SHRIHARI SHINDE
C. R. NO.: 81
DATE : 18/02/2026

ORDER

(Dictated and pronounced in open Court)

01] The plaintiff has filed this summons for judgment against defendant on 23/12/2024. Defendants No. 1 and 2 has filed affidavit in reply to the summons for judgment and resisted it and prayed for unconditional leave to defend the suit. The plaintiff has filed rejoinder to the reply filed by the defendants. Defendant No. 3 failed to appear therefore, order was passed to proceed ex-parte against defendant No. 3 vide order dated 02/07/2024.

02] As per the plaintiff, it is engaged in business of construction and real estate. Defendants No.1 is a registered partnership firm and engaged in the business of construction and real estate. Defendants No.2 and 3 are Managing Partners of Defendant No.1. Further, defendants No.2 is the Private Limited Company and one of partner of defendant No.1. Further, defendant No.2 through its Director and Defendants No.3 being partner of Defendants No.1 approached the plaintiff in the month of August, 2017 and requested for a loan for the purpose of expansion of business. It is contended that defendants No.2 & 3 dishonestly and fraudulently misrepresented to the plaintiff that they are partners of Defendants No.1. Further, they misrepresented that they will give returns of 12% p.a. interest. It is also contention of the said defendants that they further misrepresented that they are in need of loan of Rs. 35,00,000/-for three to four years. The plaintiff advanced an amount of Rs.25,00,000/- on 19/08/2017 and Rs.10,00,00/- by cheque on 09/04/2018 in the account of defendant No.1. The defendants agreed to repay the said amount on demand with interest at the rate of 12% p.a. Accordingly, defendants have paid an amount of Rs. 9,33,000/- as collective interest for the period 18/08/2017 to 31/12/2019 at the rate of 12% p.a. subject to TDS at the rate of 10% on gross interest. However, defendants failed to repay the principal amount of Rs. 35,00,000/-. The defendants have issued confirmation of account statement in favour of plaintiff for financial year for the period 01/04/2017 to 31/03/2018, to 01/04/2022 to 31/03/2023 and it is signed by defendants No.1. Thus, defendants have admitted their liability. The defendants are liable to pay an amount of Rs. 16,41,500/- at the rate of 12% p.a. for the period 01/01/2020 to 30/11/2023 and principal amount of Rs. 35,00,000/-. The defendants have made part payment of Rs.15,000/- towards principal amount on 21/12/2021 and therefore, principal balance amount is Rs.34,85,000/-. As defendants failed to pay outstanding amount with interest plaintiff issued letter dated 30/05/2022 and called upon to make the payment of outstanding amount. Further, the defendants failed and neglected to pay the outstanding amount. Therefore, plaintiff again issued demand notice dated 22/07/2022 and called upon the defendants to make the payment of Rs. 45,35,000/- including interest. However, the defendants failed and neglected to pay the said amount. Therefore, now plaintiff is entitled for an amount of Rs. 51,26,500/- including interest from 01/01/2020 to 30/11/2023.

03] It is further submitted on behalf of plaintiff that defendants have admitted their liability in view of confirmation of account. Further, the last part payment made by the defendants on 15/03/2021 therefore, suit is within limitation. It is further submitted that defence of the defendants is that suit is barred by provisions of Maharashtra Money Lending (Regulations) Act and therefore, suit is not maintainable under Order 37, Rule 2 of Civil Procedure Code. It is also defence of the defendants that there is no agreement for rate of interest and suit is filed after 10 yeas. It is further submitted that defendants have paid interest at the rate of 12% p.a. and therefore, there is no substance in the defence that rate of interest was not agreed between the parties. The plaintiff has relied on Article 25 of the Limitation Act that, suit for recovery for money is to be filed within three years when the interest become due. Further, defendants have not raised any substantial defence or triable issues therefore, defendants is not entitled for leave to defend the suit. Hence, summons for judgment may be allowed.

04] On the other hand, it is submitted on behalf of defendants No. 1 and 2 that suit as well as Summons for Judgment filed by the plaintiff is not maintainable. It is further submitted that there is no contract between the plaintiff and defendants and there is no promissory note or written contract. Therefore, suit is not maintainable under Order 37, Rule 2 of C.P.C. Further, plaintiff has advanced money without having valid Money Lending License. Therefore, this Court has no jurisdiction to try the suit as per Section 13(1) of Maharashtra Money Lending (Regulations) Act 2014. As per the plaintiffs case, it has advanced friendly loan on oral assertions. It is also defence of the defendants that the alleged advanced is in the month of April 2017 and therefore, plaintiff ought to have filed suit on or before 2020. However, suit is filed in the year 2024 and therefore, it is barred by limitation. It is further submitted that plaintiff has suppressed the material fact that loan was advanced as friendly loan. If the plaintiff had advanced friendly loan then it is not entitled to claim interest. Further, it appears that only March, 2020 defendants was liable to pay interest, as after April 2020 there is no document to show interest was payable. As per the ledger statement annexed to the plaint shows interest upto 31/03/2023, whereas plaintiff is claiming interest since 01/10/2019 to 30/11/2023. Further, TDS Certificate does not show TDS has been charged on the interest amount. The plaintiff has not filed his Form No. 26A to substantiate his contention. It is further submitted that it was agreed between the plaintiff and defendant that defendant will repay the amount to the plaintiff as and when they possessed funds or after a period of 10 years, whichever is earlier. Therefore, no sum is due and payable as on today and therefore, Summary Suit as well as Summons for Judgment liable to be dismissed. Further, it is submitted if loan amount was to be repayable earlier than plaintiff ought to have taken steps since 2019 to 2024. However, no such steps are taken by the plaintiff. It is further submitted that confirmation of account annexed to the plaint is not adequately stamped as required by Maharashtra Stamp Act 1958. The defendants have raised triable issues i.e. suit is not maintainable under Order 37, Rule 2 of C.P.C., when amount of Rs.35,00,000/- was repayable, is there bar of Money Lending Act, whether suit is within limitation and whether confirmation of account are duly stamped. It is further submitted that they are not liable to pay any amount to the plaintiff. Further, in view of triable issues raised by the defendants, they are entitled for unconditional leave to defend the suit. Therefore, Summons for Judgment may be dismissed.

05] Perused Summons for Judgment, reply, rejoinder and record of the case. Heard both parties. On perusing plaint, it appears that as per the plaintiff it had advanced an amount of Rs. 35,00,000/- by cheque to defendant No.1 in two tranches as a loan, at the request of defendant No.2 for expansion of his business. The plaintiff to support his contentions has filed statement of his bank account alongwith Certificate u/s. 65 B(4) of the Indian Evidence Act issued by HDFC Bank vide List Exh.5/1. On perusing said documents, it appears that its substantiate the contention of the plaintiff. It is pertinent to note that the defendants have not denied that they had borrowed an amount of Rs.35,00,000/-. However, it is the contention of the defendants that it was agreed to repay the said loan as and when defendants possesses the fund or after the period of 10 years which your earlier.

06] Further, the plaintiff has filed audited balance-sheet of the plaintiff company as on 31/03/2023 filed on record vide List Exh.5/2 to substantiate his contention that defendants are liable to pay the outstanding amount. It is the contention of the plaintiff that the defendants have admitted liability vide confirmation of accounts dated 01/04/2018, 01/04/2020, 01/04/2021, 01/04/2022 and 01/04/2023. The plaintiff has filed said confirmation accounts on record vide List Exh.5/3. On perusing said confirmation of accounts, it appears that defendant No.2 on behalf of defendant No.1 has admitted that an amount of Rs. 35,00,000/- was borrowed from the plaintiff. Further, it is admitted that they have paid an interest on the said amount from the year 2018 to 2020. It is the defence of the defendant that rate of interest was not agreed between the parties. Admittedly, there is nothing on record to show that there is written agreement between the parties with respect to the rate of interest 12% p.a. Further, though the defendants have admitted that they had paid some amount towards interest, it needs to be decided whether it amounts to agreement between the parties with respect to the rate of interest.

07] Further, it is defence of the defendants that suit is barred by limitation as loan was advanced in the month of April 2017 and suit is filed in the year 2024. It appears that the suit is filed on 21/12/2023. The plaintiff has filed confirmation of accounts on record 01/04/2018 to 01/4/2023. Therefore, there is no substance in the contention of the defendant that suit is barred by limitation.

08] It is also defence of the defendants that the plaintiff is not having money lending license and therefore, this Court has no jurisdiction. However, it is settled law that the defendants have to prove the said fact by adducing the evidence. In the present case, except bare contention there is no documentary evidence on record at this stage to show that the plaintiff is engaged in money lending business. Admittedly, this is a triable issue.

09] It is also defence of the defendants that as there is no written contract between the parties, suit is not maintainable under Order 37, Rule 2 of C.P.C. However, as discussed above, the plaintiff has filed confirmation of accounts on record and same are admitted by the defendants. Therefore, there is no substance in the defence of the defendants that suit is not maintainable under Order 37, Rule 2 of C.P.C. It is also defence of the defendants that confirmation of accounts are not duly stamped. It is pertinent to note that the defendants have not brought on record any provisions to show that the confirmation of accounts requires any stamp. It is also defence of the defendants that an amount of loan was repayable as and when defendants possess the funds or after 10 years. However, the defendants have failed to show when it was agreed between the parties to return the amount whenever the defendants receives funds. The defendants have not produced any documentary evidence on support of their contention. On the contrary, defendants have admitted that they had borrowed the loan and it was repayable. Thus, though defendants have raised triable issues with respect to the rate of interest and plaintiff is doing business of money lending, these issues needs to be adjudicated. However, in view of admission of the defendants that they have borrowed loan from the plaintiff, I am of the view that defendants are entitled for leave to defend the suit subject to condition of deposition principal amount i.e. Rs. 34,85,000/-. Hence, I proceed to pass following order.

ORDER

1) Summons for Judgment No.02 of 2025 in Summary Suit No. 64 of 2024 is disposed of as follows:

(a) Leave to defend the suit is granted to defendants No. 1 and 2 subject to condition that they shall deposit balance principal amount of Rs. 34,85,000/- within 60 days from the date of this order.

(b) Defendants No.1 and 2 shall be at liberty to file their written statement on record within 30 days after depositing amount.

2) After depositing amount by the defendants, it be deposited in fixed deposits in any nationalized bank as per law till further orders.

3) No order as to costs.

4) Summons for Judgment No.02 of 2025 is disposed of accordingly.

SANGRAM SHRIHARI SHINDE
Digitally signed by SANGRAM SHRIHARI SHINDE
Date: 2026.02.21 14:53:10 +0530

(Sangram S. Shinde)
Adhoc Judge,
City Civil Court, Mazgaon, Mumbai.
C.R.No.81

Date : 18/02/2026
Dictated on : 18/02/2026
Corrected & signed on : 21/02/2026

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER”

UPLOAD DATE	NAME OF STENOGRAPHER
21/02/2026	Mrs. V. V. Malgaonkar

Name of the Judge (with Court Room No.)	Shri. Sangram S. Shinde C.R. No.81
Date of Pronouncement of JUDGMENT/ORDER	18/02/2026
JUDGMENT/ORDER signed by P. O. on	21/02/2026
JUDGMENT/ORDER uploaded on	21/02/2026