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Registered on	26	9	2022
Decided on	17	10	2023
Duration	Y.	M.	D.

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

**Small Suit No. 814/2022
Exh. No. 27**

Plaintiff:-

JAY MAHAKALI CREDIT CORPORATION
registered firm under Money Lending Act,
Jagdishbhai Lavjibhai Ramani,

Address:-

Kothariya Ring Road, National Highway 8-B,
Opp. Ramnagar Tirupati Balaji park,
Rajkot.

Versus.

Defendants-

1)PRADIPBHAI KALUBHAI TANK

2)KALUBHAI BHIKHABHAI TANK

Address of both:-

"Pitrukrupa", Shaktinagar Society Street No.6,
Kothariya Solvent, Vavdi, Rajkot.

Sub: Suit to recover outstanding amount of Rs.1,41,851/-

Judge, Small Cause Court, Rajkot

Appearance:-

N.J.Mehta Learned Advocate for the plaintiff.

Suit proceed against the defendants as an exparte.

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

1. The facts of the plaintiff suit can be narrated as under.
2. That the plaintiff have filed the present suit to recover an amount of **Rs.1,41,851/-** from the defendants. It is averred by the plaintiff that plaintiff Shri Jay Mahakali Credit Corporation, Rajkot, Gujarat is having Money Lending License vide Reg. No.G.M.L./3C/827/2015. Since then, the plaintiff is running his firm as per the norms and instruction of the Government and rules of the money lending.

Further, defendants had came to the plaintiff's office and demanded to borrow amount Rs.1,30,000/- for their personal use and also gave necessary documents for the loan and on 04/01/2022, the defendant had availed the loan amount of Rs.1,30,000/- for 24 months at the interest rate 12% with conditions and which was accepted by the defendants. Further, as per the agreement, monthly installment of Rs.6,717/- was decided for 24 months but the

defendants have did not pay any amount to the plaintiff and as per the closing balance, now defendants are liable to pay amount of Rs.1,41,851/- to the plaintiff. Further, to recover the said amount, the plaintiff has sent a legal notice to the defendants on 07/07/2022 but in response to the same, the defendants have neither replied the notice nor paid the outstanding amount of the plaintiff. Hence the plaintiff constrained to file the present suit.

3. It appears from the record that summons has been served to the defendants and in response to the same, the defendants has neither remain present before the court through is advocate nor filed any oral or documentary evidence in to defend the suit. Hence, the court has passed an ex-parte order against the defendants on **29/03/2023** as per O-9, R-6(1) of C.P.C.

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

ORAL EVIDENCE

No.	Name of Witness	Exh. No
1	Affidavit of plaintiff's witness Jagdishbhai Lavjibhai Ramani	10

DOCUMENTARY EVIDENCE

Sr. No.	Description	Ex. No.
1	Registration certificate of Jay Mahakali Credit Corporation regarding Gujarat Money Lenders Act-2011	12
2	Loan application form made by defendants	13
3	Promissory note written by the defendants to the plaintiff	14
4	Annexure-11 shows term and condition of the loan	15
5	Receipt regarding amount received to the defendants	16
6	Confession regarding money borrowed by defendants	17
7	Consent affidavit written by the defendants to the plaintiff	18
8	Signatures of the defendants in the latter shows the terms and conditions of the loan	19
9	Account Ledger copy of defendants	20
10	Legal notice sent to the defendants	21
11	Receipt of legal notice	22
12	Receipt of legal notice	23
13	Acknowledgement of served notice	24
14	Acknowledgement of served notice	25

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 defendants did not appear before the court and Hence, the Court has passed an ex-parte order.

6. The following issues have been framed at **Ex.9** for determination of the suit.

1	Whether the plaintiff proves that Rs.1,41,851/- is due outstanding amount from the defendants?
2	Whether the plaintiff is entitled to get interest? if yes, at what rate?
3	Whether plaintiff proves that suit is within the limit?
4	What order and decree?

Issue No.1:-

6. Having carefully gone through plaint and the documents produced at **Ex. 12 to 25** as mentioned above. The plaintiff 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 suit has been duly served to the defendants and after service of notice, the defendants is neither appeared personally nor appeared through his advocate and therefore, the Hon'ble Court has passed an ex-parte order against the defendants. 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 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.12 to 26** which are supported the averments made in the plaint and accordingly, the plaintiff has proved that plaintiff is entitle to recover outstanding amount of **Rs.1,41,851/-** from the defendants. 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 relief clause of plaint para 8(1) the plaintiff has demanded interest @**18% P.A.** on the suit amount Meaning thereby,

in view of above, the interest demanded by the plaintiff is highly excessive and exorbitant and therefore, the plaintiff is entitled to get an interest at the rate of **6% p.a.** on outstanding due amount and accordingly. Hence, finding of issue No. 2 is given in the "**Partly Affirmative**"

Issue No.3:-

Looking to the documentary evidence submitted by the plaintiff it transpire 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 entitle to get outstanding amount of **Rs.1,41,851/-** from the defendants and in view of above discussion and considering the facts of the plaint, plaintiff suit is require 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 defendants are hereby liable to pay an amount of **Rs.1,41,851/-**-(Rupees one lakh forty one thousand eight hundred fifty one 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
17th day of October 2023.

R A J K O T

Date :17/10/2023

(CHANDRASINH PRATAPSIKH CHARAN)

**Judge,
Small Cause Court,
Rajkot
(UID - GJ01483)**