**In The Court Of Senior Sub-Judge Shimla**

Civil Suit No.: \_\_\_\_\_\_\_of 2004

(Under Order XXXVII of the Code of Civil Procedure 1908)

Date of Institution : \_\_\_\_\_\_\_

Plaintiff

Versus

Defendants

Suit for the recovery of Rs. \_\_\_\_\_\_ along with cost and interest @ 24% pa

Plaint under Order XXXVII of the Code of Civil Procedure 1908 as mentioned in the suit

Respectfully Sheweth :

1.  That the present suit is being filed under the specific provisions under Order XXXVII of the Code of Civil Procedure, 1908.

2.  That no relief, which does not fall within the ambit of this rule, has been claimed in the plaint.

3.  That the plaintiff is a \_\_.  The defendant purchased \_\_cement and sand etc. from the plaintiff.

4.  That the defendant issued the Cheque bearing No. \_\_ dated \_\_  for the sum of Rs. \_\_ drawn at bank \_\_, to the plaintiff towards the consideration of the above articles purchased from the plaintiff.

5.  That the plaintiff presented the cheque through his own bankers, ie; \_\_, but the same was returned unpaid, on \_\_ with the endorsement of insufficiency of funds in the account of the defendant as per the remarks of the banker of the defendant.

6.  That other necessary particulars are as under for the convenience of this Hon'ble court:-

(a)  Date of cheque                : \_\_\_\_\_\_\_

[b]  Date of presentation          : \_\_\_\_\_\_\_

          of Cheque before the Bank

          (within 6 months from \_\_)

[c]  Date of dishonour of Cheque   : \_\_\_\_\_\_\_

[d]  Date of receipt of Memo of    : \_\_\_\_\_\_\_

          of dishonour of cheque

[e]  Date of sending of Notice     : \_\_\_\_\_\_\_

          (within 30 days from \_\_)

[f]  Date of service of Notice     : \_\_\_\_\_\_\_

[g]  Date when cause of action     : \_\_\_\_\_\_\_

          arose (15 days after service on \_\_)

7.  That the defendant has apparently issued the cheque without caring to ensure adequate funds and knowing fully well with the ulterior motive to cheat the plaintiff.

8.  The memo to that effect was duly communicated to the plaintiff by its banker on \_\_.

9.  That the said cheque drawn by the defendant on an account maintained by him with the above banker for payment of the amount of money to the plaintiff from out of that account was issued for the discharge of the above said debt/liability.

10. the said cheque has been returned by the bank unpaid, because of the amount of money standing to the credit of account of the defendant is insufficient to honour the cheque or that it exceeds amount arranged to be paid from that account by an agreement made with that bank.

11. the cheque has been presented to the bank within a period of six months from the date on which it is drawn ie; on \_\_.

12. That the plaintiff in due course of the cheque, has made a demand for the payment of the said amount of money by giving a notice in writing  to the defendant within statutory period of thirty days of the receipt of information by him from the bank regarding return of the cheque as unpaid.  The said notice was sent on the correct address of the defendant through a Registered/AD letter as well as through UPC on \_\_ and the said registered letter has been received back with the endorsement "Unclaimed", as is evident from the endorsement of post office seal on the it which legally is presumed to have been served as otherwise also the UPC has not been received back and the same has been duly delivered to the defendant.

13. That the defendant has failed to make the payment of the amount of money to the plaintiff in due course of the cheque within fifteen days of the receipt of the said notice.

14.  That it is pertinent to mention here that the debt/liability, for which the cheque was issued by the defendant to the plaintiff is a legally enforceable debt/liability.

15. the cause of action accrued to the plaintiff on \_\_, when the cheque was dishonoured and thereafter on \_\_ when the legal notice was sent to the defendant through Registered letter and UPC.

16. That the plaintiff is permanently residing within the jurisdiction of this Hon'ble court and all the correspondence from the defendants were received at his home address and the office/residence of the defendant is located in the territory of this Hon'ble Court, hence this Hon'ble Court has each and every jurisdiction to try and entertain this suit.

17. That the value of the suit for the purposes of jurisdiction has been fixed for Rs.  \_\_/- and for the purposes of recovery and correct and authorised court fee stamp of Rs. \_\_ has been affixed on the plaint.

18. It is, therefore, most respectfully prayed that a decree for recovery to the effect that plaintiff is entitled to recover a sum of Rs. \_\_/- along with interest @ 24% wef \_\_ till the date of realisation of amount along with cost of this suit, be passed in favour of plaintiff and against the defendants.  Such other reliefs as deemed fit and proper in the facts and circumstances of the case may also be passed in favour of the plaintiff and against the defendants in the interest of justice.

AND FOR THIS ACT OF KINDNESS, THE HUMBLE PLAINTIFF AS IN DUTY BOUND SHALL EVER PRAY.

Shimla                                                                                      Plaintiff

\_\_\_\_\_                                                                                      Through, Advocate

Verification:

I, \_\_\_\_\_\_\_, do hereby verify that the contents of the above plaint from paras 1 to \_\_ are true and correct to the best of my knowledge and belief, and  no part of it is false and nothing material has been concealed therein.

Verified at Shimla this the\_\_\_\_\_\_\_.

                                                                                                Plaintiff

**IN THE COURT OF SENIOR SUB-JUDGE SHIMLA**

Civil Suit No.: \_\_\_\_\_\_\_of 2004

(Under Order XXXVII of the Code of Civil Procedure 1908)

Plaintiff

Versus

Defendants

Affidavit in support of Plaint under Order XXXVII of the Code of Civil Procedure 1908

I, \_\_\_\_\_\_\_, do hereby solemnly affirm and declare as under:-

1. That the accompanying plaint has been drafted under my instructions.

2. That the contents of paras 1 to \_\_\_\_\_ of the accompanying plaint are correct and true to the best of my knowledge and no part of it is false and nothing material has been concealed therein.

3. That I further solemnly affirm and declare that the contents of this affidavit of mine are correct and true and no part of it is false and nothing material has been concealed therefrom.

Affirmed here at Shimla this \_\_\_\_\_\_\_.

**IN THE COURT OF : SENIOR SUB JUDGE SHIMLA**

\_\_\_\_\_\_\_Versus \_\_\_\_\_\_\_

Suit : for Recovery

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name & Parentage

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

            In the above noted suit every summons, notice & other order may be served on me on the address given above during the pendency of the suit.  Change of Address will be intimated to the Court.

Dated : \_\_\_\_\_\_\_                                                                      Sd:-

                                              Plaintiff     Petitioner

                                                 Defendant  Respdt.

                                     Through, Advocate

                                Process Fee

**IN THE COURT OF : SENIOR SUB JUDGE SHIMLA**

\_\_\_\_\_\_\_Versus \_\_\_\_\_\_\_

Claim : for Recovery

Date of Hearing :\_\_\_\_\_\_\_

Date \_\_\_\_\_\_\_

By Whom Filed\_\_\_\_\_\_\_

Purpose \_\_\_\_\_\_\_

Amount \_\_\_\_\_\_\_

Stamp \_\_\_\_\_\_\_

      Plaintiff

                    For service of defendants

Advocate

Received on \_\_\_\_\_\_\_ Court-fee stamp of the value of Rs. \_\_\_\_0.75 with \_\_\_\_\_\_ copy in case No. \_\_\_\_\_ of 2004 in Re. \_\_\_\_\_\_\_Vs \_\_\_\_\_\_\_

Signature of the Head Notice Writer

Under Order 7 Rule 13 (1) CPC

List of Documents Filed By Plaintiff

**IN THE COURT OF : SENIOR SUB JUDGE SHIMLA**

\_\_\_\_\_\_\_Versus\_\_\_\_\_\_\_

Date of Hearing: \_\_\_\_\_\_\_

Suit for : for Recovery

Date of Production :\_\_\_\_\_\_\_

**S.No Details, Date     What is        If Documents    If Rejected**

**Documents         Intended       Filed What is   Then the**

**to be          the Exh Marked  Date of**

**Proved From    on it           Return of**

**Document                       Documents**

**ÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄÄ**

**1.Original Dishonoured Cheque bearing No. \_\_ dated \_\_ to be drawn on \_\_ for a sum of Rs. \_\_**

2.Original Memo of Bank dt \_\_

3.Copy of Notice issued to the defendant dated \_\_

4.Original Receipts of Registry & AD.

5.  Original Receipts of UPC.

6. \_\_Original unclaimed Registered Letter.

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Date: &@&

Counsel for Plaintiff/Defendant

List of Documents Relied Upon

Under Order 7 Rule 14 CPC Filed by : Plaintiff

In the Court of : Senior Sub Judge Shimla

-2-   Versus   -3-

Suit : for Recovery           Date of hearing:

----------------------------------------------------------------

1.   Have you produced any              Yes Sir, as per list.

documents with the plaint

so, what are those document.

2.   Do you wish to produce any more    Yes sir, if required.

documents which are in your

possession and custody

if so, what are those documents.

3.   Do wish to relay upon any          Yes sir, later on

other documents,  if so in         from the custody

whose possession they are and      of defendants.

what are those documents.

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Counsel for

Dated : &@&

No. 4

SUMMONS IN A SUMMARY SUIT

(O. 37, R. 2)

-2- Versus -3-

To:

-4-

WHEREAS -1-, has instituted a suit against you under Order 37 of the Code of Civil Procedure, 1908, for Rs. \_\_ and interest, you are hereby summoned to cause an appearance to be entered for you, within TEN days from the service hereof, in default whereof the plaintiff will be entitled, after the expiration of the said period of ten days, to obtain a decree for any sum not exceeding the sum of Rs. \_\_ and the sum of Rs. \_\_ for costs, together with such interest, if any, as the Court may order.

If you cause an appearance to be entered for you, the plaintiff will thereafter serve upon you a summons for judgment at the hearing of which you will be entitled to move the Court for leave to defend the suit.  Leave to defend may be obtained if you satisfy the Court by affidavit or otherwise that there is a defence to the suit on the merits or that it is reasonable that you should be allowed to defend.

GIVEN under may hand and the sea] of the Court, this \_\_ .

                                            Senior Sub Judge/Sub Judge                                                                Shimla

                       SUMMONS FOR JUDGMENT IN A SUMMARY SUIT

                                    (O. 37, R. 3)

                                   -2- Versus -3-

In the Court of \_\_Senior Sub-Judge/Sub-Judge at Shimla, Suit No.    of 2003.

-2-,

Plaintiff

Versus

-3-

Defendant

Upon reading the affidavit of the plaintiff the Court makes the following order, namely. -

Let all parties concerned attend the Court or Judge, as the case may be, on the day \_\_ of \_\_ 2003, at 10.0O'clock in the Morning on the hearing of the application of the plaintiff that he be at liberty to obtain judgment in this suit against the defendant (or if against one or some or several, insert names) for Rs. \_\_ and for interest and costs.

Dated the    day of     2003