

In the Court of the _____

AT.....

No.

of 200

9106

Between I

Plaintiff
Petitioner

Complainant
Appellant

A N D


Defendent
Respondent

Accused

I / We

do hereby appoint and retain

Advocate/s to appear for me/us In the above Suit/Appeal/Petition/Case and to Conduct and Prosecute or defend the same and all Proceedings that may be taken In respect of any application for execution of any decree or order passed therein. I / We empower my/our Advocate/s to appear in all miscellaneous proceedings in the above suit or matter till all decrees or order are fully satisfied, or adjusted to compromise and obtain the return of documents and draw any money that might be payable to me/us in the said suit or matter and I/We do further empower my/our Advocate/s to accept on my/our behalf service of notice of all or any appeal or petition filed in any Court or appeal Reference or Revision with regard to the said suit or matter before disposal of this same in Honourable Court.

For M/s. MEHTA AND MODI HOMES.
 Partner

Certified that the executant who is well acquainted with English, read this Vakalatnama that the contents of this Vakalatnama were read out and explained in Urdu/Hindi/Telugu to the executant he/she/they being unacquainted with English, who appeared perfectly to understand the same and signed or put his/her/their name or mark in my presence.

Identified by : Sri _____

Executed on this the _____ day of _____ 200

ADVOCATE

March/09

In the Court of the _____

AT.....

No. of 200

BETWEEN ;

Plaintiff
Petitioner

Complainant
Appellant

A N D

Defendent
Respondent

Accused

V A K A L A T
ACCEPTED

Filed on ;

Filed by ;

Advocate for ;

Address for Service ;

Advocate's Co-Op. Society
City Civil Court, Hyd.

IN THE COURT OF THE XI ADDL. CHIEF METROPOLITAN MAGISTRATE
AT SECUNDBERABAD

C.C. No. OF 2009

Between:

M/s. Mehta and Modi Homes,
having their registered office at 5-4-187/3&4,
II Floor, Soham Mansion,
M.G. Road, Secunderabad,
represented by its Managing Partner
Shri Soham Modi S/o Shri Satish Modi
Aged 36 years, R/o Hyderabad.

... Complainant

AND

Smt. A. Susheela W/o A. Sudhakar
Aged 50 years,
R/o 304, Mahalakshmi Towers,
Shivbagh, Ameerpet,
Hyderabad.

... Accused

COMPLAINT FILED UNDER SEC. 200 OF C.P.C.
FOR THE OFFENCES COMMITTED U/s. 138 & 142 OF N.I. ACT.

1. Complainant : Mehta and Modi Homes
Rep. by its Managing Partner
Shri Soham Modi
2. Name of the Accused : Smt. A. Susheela
3. Date, time and place of Offence :
Cheque No. 827455 dated 8.11.2008
for Rs. 7,88,000/- drawn on Andhra
Bank, Sultan Bazar Branch,
Hyderabad.

Cheque presented for Collection
through IDFC Bank, Secunderabad
Branch

The Cheques returned for reasons
"Funds Insufficient" on 25.3.2009

On 2.4.2009 Complainant got issued
Notice of Demand for payment to the
Accused address as shown in the
cause title.
4. Nature of offence : The Cheque is returned for reason
of "Insufficient Funds".
5. Offence Under Section : Offence U/s. 138 and 142 of N.I. Act.
6. Penal Section : U/s. 138 of N.I. Act.

For M/s. MEHTA AND MODI HOMES,

Partner

7. Name of the P. S : P.S.Ramgopalpet
8. List of Witnesses :
1. M/s.Mehta and Modi Homes
Rep. by its Managing Partner
Sri Soham Modi
 2. The Branch Manager,
Andhra Bank, Sultan Dazar
Hyderabad
 3. The Branch Manager,
HDFC Bank
Secunderabad Branch

BRIEF FACTS:

The Complainant Submits as follows:

1. The Complainant is a Builder and Developer and they have developed one such project under the name and style of "Silver Oak" Bungalows, Phase II, situated at Survey No.291, Cherlapalli, Hyderabad - 500 051.

2. The Accused approached the Complainant for purchase of two Bungalows bearing Nos.228 in the above Venture and accordingly a Booking Form was signed by Accused on 28th November, 2006 and it was agreed for a total sale consideration of Rs.70,42,076/- towards the cost of the plot of land and construction charges for the Bungalow. The above cost includes charges like registration, stamp duty, interest for delayed payment upto 18.3.2009 and other expenses. Accordingly, the Accused made an aggregate payment of Rs.56,21,600/- and a balance amount of Rs.14,20,476/- was due from Accused towards a part payment of the balance. The Accused issued a cheque bearing No.827455 dated 8.11.2008 for Rs.7,88,000/- drawn on Andhra Bank, Sultan Bazar Branch, Hyderabad.

3. The Complainant presented the said cheque through their Bankers HDFC Bank, Secunderabad Branch on 25.3.2009 for encashment. But to the utter shock and surprise of the Complainant, the said cheque has been returned with an endorsement "Insufficient Funds" vide Banker's Memo dated 25.3.2009. The Complainant informed about the dishonour of cheque and the Accused promised to pay the amount covered under the said cheque within a couple of days but she failed keep up her promises

For M/s. MEHTA AND MODI HOMES

3. It is respectfully submitted that, thereafter the complainant through their Advocate, got issued a legal notice dated 2.4.2009 to the Accused demanding for payment of the said Cheque amount within 15 days from the date of receipt of the said notice and the said legal notice sent through Registered Post with Ack. Due was served on the Accused but failed to comply with the notice.

4. It is respectfully submitted that issuing cheque without having sufficient funds in the bank account is an offence punishable under Section 138 of Negotiable Instruments Act, 1881 as amended by Act 55 of 2002. Therefore, the Accused is liable for her illegal acts and omissions which also amounts to an offence punishable U/S.420 of Indian Penal Code.

5. It is respectfully submitted that, by her illegal and malafide action, the Accused has rendered herself liable to be prosecuted for the Offence committed by him under Section 138 of N.I.Act, 1881 as amended by Act 55 of 2002.

6. CAUSE OF ACTION:


The cause of action for the complaint arose when the Accused issued cheque on 8.11.2008 towards balance payment of the cost of bungalow, on 25.3.2009 when the Complainant presented the cheque their Banker and on 25.3.2009 when the when the cheque is returned dishonoured for the reason of "Insufficient funds" by the Banker of Accused and on 2.4.2009 when the Complainant got issued a notice and on 6.4.2009 when the Accused received the said notice but failed to comply with the notice and the cause of action is still subsisting.

7. JURISDICTION:

This Hon'ble court has got jurisdiction to entertain this Complainant since the Complainant's registered office is situated at Soham Mansion, M.G.Road, Secunderabad which is within the territorial jurisdiction of this Hon'ble court.

8. LIMITATION:

The Criminal Complaint is within time as prescribed under Law


For M/s. MEETH AND MODI HOMES

 Partner

9. PRAYER:

The Complainant prays that this Hon'ble court may be pleased

- a). to take cognizance of the offence punishable under section 138 of Negotiable Instruments Act;
- b). Issue summons and punish the Accused as per law;
- c). Award double the amount of cheque towards compensation under section 357 (3) of Cr.P.C. to the Complainant and
- d). pass such other order or orders as this Hon'ble court may deem fit and proper, in the interest of justice.

SECUNDERABAD
DATE: 23.4.2009

For M/s. MEHTA AND MODI HOMES

Partner
COMPLAINANT

COUNSEL FOR THE COMPLAINANT

VERIFICATION

I, Soham Modi S/o Sri Satish Modi, Managing Partner of the Complainant Firm, do hereby declare and state that the facts stated in the complaint are true and correct to the best of my knowledge, belief and information. Hence verified on this the 23rd day of April, 2009 at Secunderabad.

SECUNDERABAD
Date: 23-4-2009

For M/s. MEHTA AND MODI HOMES

Partner
COMPLAINANT

LIST OF DOCUMENTS

S.No.	Date	Description of document
1.	8.11.2008	Cheque No.927455 for Rs.7,89,000/- drawn on Andhra Bank, Sultan Bazar, Hyderabad - copy
2.	25.3.2009	Return memo - copy
3.	7.4.2009	Legal Notice - Xerox copy
4.	6.4.2009	Postal acknowledgement - copy

The originals of all the documents will be submitted at the time of trial.

SECUNDERABAD
DATE: 23.4.2009

For M/s. MEHTA AND MODI HOMES

Partner
COMPLAINANT

COUNSEL FOR THE COMPLAINANT

IN THE COURT OF THE XI ADDL.
CHIEF METROPOLITAN MAGISTRATE
AT SECUNBDERABAD

C.C. No. OF 2009

Between:

M/s.Mehta and Modi Homes
.. Complainant

And

Smt.A.Susheela
.. Accused

COMPLAINT FILED UNDER SEC. 200
OF Cr.P.C.FOR THE OFFENCES
COMMITTED U/s. 138 & 142 OF
N.I. ACT.

FILED ON : 23.4.2009

FILED BY:

Sri C.BALAGOPAL
Advocate

Address for Service:

Flat No.103, Harivilla Apts
Road No.11, West Marredpally
Secunderabad.
Ph: 64570512 / 9246172988

COUNSEL FOR THE COMPLAINANT