IN THE COURT OF THE ADDITIONAL SUBORDINATE COURT,SRIVILLIPUTTUR.
Present :- Tmt. R.Mohana, B.L.,
Additional Subordinate Judge, Srivilliputtur.
Wednesday the 18th day of October 2023

O.S.No. 578/2022

CNR No. TNVR03-001251-2022

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Union Bank of India,
Seithur Branch,
represented by its Manager ... Plaintiff.

/Vs/

Selvam Soda Company
Prop. Palaniselvi ... Defendant.

This suit coming on before me for final hearing on 26.09.2023 in the presense of Learned Counsel for Plaintiff Thiru.V.Jayaprakasam and the Defendant is called absent and set exparte and upon hearing planitiff side arguments and on perusal of documents and evidence and having stood over for consideration till this day this Court delivered the following...

Judgment

This suit is filed by the plaintiff for Directing the defendant to pay a sum of Rs.3,98,361.55/- with subsequent interest at the rate of 10.35% per annum to the plaintiff from the date of plaint to till the date of realization, and also directing the defendants to pay the costs of the suit to the plaintiff.

2. Brief averments of plaint:

The Plaintiff is a bank is a Nationalized Bank incroporated under the Banking companies Act 1970 (Acquisition and transfer of undertaking) with its head office at Mumbai and having its branches throughout India and one among them at Gopalapuram. It is represented by its Senior Branch Manager and principal office who is a competent person to sign the pleadings and other documents and to conduct proceedings on its behalf under order 29 Rule 1 CPC. The plaintiff submits that the defendant applied for Term loan on 29.01.2019. The plaintiff sanctioned loan to a sum of Rs.4,80,000/-(Rupees Four Lakhs and Eighty Thousand only) on 29.01.2019. The defendant received the loan amount of Rs.4,80,000/-(Rupees Four Lakhs and Eighty Thousand only) and executed deman promissory Note on 29.01.2019, Term loan agreement on 27.02.2019, Hypothecation agreement 22.02.2019. Thge defendant executed the undertaking letter on 08.02.2019 in favour of the plaintiff. The defendant executed letter of confirmation on 22.02.2019 in favour of the plaintiff. The loan account number is 33540644000008. The defendant agreed to repay the loan amount with 10.35% interest per annum and also agreed to penal interest at 2% percent per annum. As per the terms and conditions the defendant has to repay the loan amount in 60 equal monthly instalments. The First monthly instalment starts from 31.03.2019. Hence no portion of claim is barred by limitation. Since, the defendant availed Term loan, they are not entitled the benefits or reliefs under the provisions of Tamil Nadu Debt Relief Act. The plaintiff submit that the defendant is not regular in repayment schedules. As per copy of the statement of accounts a sum of Rs.3,93,608.73/- is due as on 31.08.2022. Inspite of the repeated demand the defendant had not taken any effective steps to settle the outstanding amount due to plaintiff. Hence the defendant accounts had become NPA classified by Banking Rules. The plaintiff sent a lawyer notice on 21.02.2022. The defendant received the same on 22.02.2022 the plaintiff has no other option but to comeforward with this suit for recovery of money against the defendant before this Hon'ble Court. The defendant is not entitled to get the relief and benefits under the Tamil Nadu Debt Relief Act.

3. The defendant was called absent and set exparte for non appearance, in spite of service held sufficient.

4. Matter in issue – Whether the Plaintiff Bank is entitled for the relief of recovery of money as prayed for, in the Plaint ?

5. On the side of the plaintiff, the Plaintiff Bank Branch Manager Thiru. Jeyakrishnan is examined as Pw1. Ex.A1 to A10 marked through him. Exparte evidence closed with Pw1. On the side of the defendants, No oral evidence adduced and no documents were marked.

6. The Learned Counsel for the Plainitiff Bank argued that the Defendant had approached the Plaintiff Bank for obtaining the Term loan for the Defendant through

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Ex.A1 Loan Application on 29.01.2019 and that, the loan has been sanctioned on 08.02.2019 through Ex.A2 and that the Defendant were executed the Promissory note to that effect, on 22.02.2019 which is marked as ExA3 and that, the defendant had executed the term loan Hypothecation of Agreement marked as Ex.A5 & Ex.A7 by admitting the terms and conditions mentioned in the same. It is further argued by the Learned Counsel that on the basis of the ExA1 to A7, the defendant received loan amount and that as per the loan agreement, even though the repayment started, the defendant is not taking any steps to repay the amount as agreed, it is reflected in the Loan Account statement which is marked as ExA10. Further it is argued that the other documents Ex A8, Ex A9 show that the defendant has not repaid the loan amount, inspite of the repeated demands made by the Plaintiff bank staffs and hence, Plaintiff bank has sent the legal notice to the defendants under ExA8 and Even then, the defendant has not turned to repay the same. Hence, the Plaintiff Bank has filed this suit for recovery of money and that, since the Plaintiff Bank has proved the case of the Plaintiff with Oral and documentary evidence and, there is no rebuttal evidence on the side of the defendant, considering the documents and evidence, the suit may be decreed as prayed for with cost.

7. The Plaintiff Bank Branch Manager Thiru.Jayakrishnan is examined as PW1 who deposed about the transaction made by the Defendant with Plaintiff Bank by marking the Documents Ex A1 to Ex A10. As per the document Ex A1 to Ex A7, it has been established by the Plaintiff Bank that the the defendant availed term Loan from the Plaintiff Bank by agreeing to repay the same with interest as agreed in the loan agreement ExA5 & Ex.A7 and that the defendant executed undertaking letter in Ex.A4 and further the other documents ExA6 shows that the defendant who was agreed to repay the loan amount with interest as admitted by availing loan. The Plaintiff Bank has established the primafacie case by sending the legal notice Ex A8 for showing the demand made by the Plaintiff Bank. It is also established by the Plaintiff Bank that the defendant has duly received the Ex A8 legal notice by through the Acknowledgment Card marked as ExA9.

8. The statement of Account in Ex.A10 also reflects that the defendant is not repaid the loan amount with interest as agreed. Hence this Court is of the opinion that the documents filed by the Plaintiff Bank Ex.A1 to Ex A10 show the prima facie case of the Plaintiff. As per the Oral and Documentary evidences, the Plaintiff Bank has proved the initial burden that the defendant availed loan amount and it has not been repaid by him after demand made by the Plaintiff Bank. On the contrary to the same, there is no rebuttal evidence produced or objection not filed by the defendant. The defendant was called absent even after receiving the summon and he remained exparte. As such, this Court is of the view that the defendant being the borrower who is liable to repay the loan amount to the plaintiff bank as accodingly, this issue is decided in favour of the Plaintiff Bank.

In the result, the suit is decreed as prayed for with cost. The defendant is liable to repay the loan amount a sum of Rs.3,98,361.55/- with its subsequent interest at the rate of 6 percent per annum on the decree amount, to the plaintiff Bank, from the date of the Plaint, till the date of realization of the entire decree amount.

Dictated to the steno typist, typed by her directly in the computer, corrected and pronounced by me in the open court, this the **18th** day of **October, 2023**.

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Additional Subordinate Judge,
Srivilliputtur.

List of documents

Plaintiff side Documents :-

Ex.A.1	29.01.2019	Loan application	Original
Ex.A.2	08.02.2019	Sanction Memorandum	Original
Ex.A.3	22.02.2019	Promissory note executed by defendant in favour of the plaintiff	Original
Ex.A.4	22.02.2019	Letter of undertaking given by the defendant	Original
Ex.A.5	22.02.2019	Term Loan Agreement executed by defendant in favour of plaintiff Bank	Original
Ex.A.6	22.02.2019	Letter of confirmation executed by defendant in favour of plaintiff Bank	Original
Ex.A.7	22.02.2019	Hypothecation (Goods) Agreement	Original
Ex.A.8	21.02.2022	Lawyer notice	Original
Ex.A.9		Acknowledgment Card	Original
Ex.A.10	05.09.2022	Statement of account	Computer Copy

List of plaintiff side witness -

PW1 - Jayakrishnan (Plaintiff Bank Branch Manager)

List of witness and document on the side of the Defendant - NIL

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ASJ,
SVPR.

Additonal Subordinate Court,
Srivilliputtur.
O.S. 578/2022
Judgement
Fair/Draft
Date- 18.10.2023