

DLET010083062021



IN THE COURT OF SH. HEM SINGH, DISTRICT JUDGE-01,
(EAST), KARKARDOOMA COURTS, DELHI

CS No. 563/2021
CNR No.DLET010083062021

In the matter of:

1. DINESH KUMAR

S/o Sh. S. C. Das
R/o U-103, Gali No. 1, Upadhyay Block,
Shakarpur, Delhi-110092

.....Plaintiff

Versus

1. VIDYAWATI

W/o Late Sh. Vinod Kumar @ Vinod Sharma

2. SUSHMA SHARMA

D/o Late SH. Vinod Kumar @ Vinod Sharma

Both residents of :

D-73, 2nd Floor, Ganesh Nagar,
Delhi-110092

Permanently residing at

Village Daulatpur, Gangadas, Shahbad Dehat,
Hardoi, PO. Anjihi Sahabad, U.P.-241124

.....Defendants

Date of Institution : 01.12.2021
Reserved for order on : 24.02.2026
Date of Decision : 16.03.2026

Suit for recovery of Rs.5,96,216/- alongwith interest @ 12% per annum

JUDGMENT

(I) Brief facts of the case:-

1. The plaintiff has filed the present suit for recovery of a sum of Rs. 5,96,216/- along with interest at the rate of 12% per annum against the defendants. It is stated in the plaint that the plaintiff is working as a government servant in the office of the Senior Auditor General, New Delhi. Defendant No.1 is the mother of Defendant No.2.

2. As per the case of the plaintiff, one Shankar Lal, who is the elder brother of the deceased husband of Defendant No.1, met the plaintiff on 19.08.2017. With the passage of time, the said Shankar Lal developed acquaintance with the plaintiff. It is further the case of the plaintiff that on 15.09.2017, Shankar Lal visited the residence of the plaintiff along with Defendant No.1 and introduced her to the plaintiff. It was represented to the plaintiff that Defendant No.1 is a widow having four daughters and three sons and that she was facing financial difficulties. Defendant No.1 and the said Shankar Lal requested the plaintiff to extend financial assistance to her.

3. It is the case of the plaintiff that on the request of Defendant No.1, he agreed to extend financial help and accordingly started transferring certain amounts from his bank account into the bank accounts of Defendant No.1 as well as Defendant No.2. As per the plaint, the plaintiff transferred certain amounts in the bank account of Defendant No.1 during the period from 28.03.2018 to 08.06.2018. It is further stated that the plaintiff also transferred certain amounts to the bank account of Defendant No.2 during the period from 25.07.2018 to 31.08.2021.

4. According to the plaintiff, he transferred a sum of Rs. 80,800/- to the bank account of Defendant No.1 and a sum of Rs. 4,41,515/- to the bank account of Defendant No.2. Apart from the aforesaid amounts, the plaintiff has also alleged that he paid a sum of Rs. 74,902/- in cash to Defendant No.2 on various occasions. Thus, according to the plaintiff, a total sum of Rs. 5,96,216/- was advanced by him to the defendants.

5. It is further the case of the plaintiff that the defendants assured him that the aforesaid amount would be returned once Defendant No.2 and the other children of Defendant No.1 started earning. However, despite the said assurance, the defendants, with mala fide intention, failed to return the said amount. The plaintiff has further stated that he made several requests to the defendants over the last about three years to return the loan amount, but the defendants failed to do

so. Hence, the present suit for recovery of the aforesaid amount has been filed by the plaintiff.

(II) DEFENCE IN BRIEF:

1. Upon service of summons, the defendants appeared before the Court and filed their joint written statement. In the written statement, the defendants have contended that the suit of the plaintiff is based on false and frivolous allegations. It is stated that Defendant No.2 first met the plaintiff in Delhi in the year 2016 when the plaintiff assured him that he would arrange a job for him. The plaintiff allegedly represented that he had a picture production house and promised to launch Defendant No.2 in Bhojpuri films.

2. It is further stated that Defendant No.2 introduced Shankar Lal to the plaintiff in the year 2017, whereupon the plaintiff engaged Shankar Lal as a house caretaker on a monthly salary of Rs. 15,000/-. However, according to the defendants, the said salary was never paid in full and the plaintiff used to pay the same to Shankar Lal in small instalments. The defendants have categorically denied that they ever took any loan from the plaintiff and have alleged that the present suit has been filed by the plaintiff only to harass them.

(III) ISSUES:-

From the pleadings of the parties, the following issues were framed by this Court on 24.09.2022:

- a) Whether the plaintiff is entitled to a decree of Rs. 5,96,216/- (Rupees Five Lakhs Ninety Six Thousands Two Hundred Sixteen)? OPP.
- b) Whether the plaintiff is entitled to the decree of pendente lite or any future interest on the abovesaid amount, if so, at what rate? OPP.
- c) Relief.

(IV) EVIDENCE:-

i) In order to prove his case, the plaintiff examined himself as PW-1 and tendered his evidence by way of affidavit, wherein he reiterated the averments made in the plaint. The plaintiff has relied upon the following documents:

- a) **Ex. PW1/1 (OSR)**- Copy of Aadhar Card of deponant
- b) **Ex. PW1/2**- Schedule-I (details of amount transferred /advanced to defendant no.1)
- c) **Ex. PW1/3**- Schedule II (details of amount transferred/advanced to defendant no. 2)
- d) **Ex. PW1/4**- Bank account statement of deponant.

The plaintiff was duly cross-examined by the Ld. counsel for the defendants.

b) The plaintiff also examined Ms. Anju Gupta as PW-2. The said witness was also cross-examined by the Ld. counsel for the defendants.

c) Thereafter, the matter was fixed for defendant's evidence. However, despite being granted several opportunities, the defendants failed to lead any evidence in support of their defence. Consequently, the right of the defendants to lead defence evidence was closed vide order dt. 12.11.2025.

(V) **FINDINGS:-**

Issue no. 1: Whether the plaintiff is entitled to a decree for a sum of ₹5,96,216/-? OPP.

i) The present suit has been filed by the plaintiff for recovery of Rs. 5,96,216/- along with interest at the rate of 12% per annum against the defendants. The plaintiff claims that he came into contact with Shankar Lal in 2017, who later introduced Defendant No.1 and requested financial help for her due to her financial difficulties. On their request, the plaintiff allegedly transferred various amounts to the bank accounts of Defendant No.1 and Defendant No.2 between 2018 and 2021 and also paid certain amounts in cash, totaling Rs. 5,96,216/-. The defendants allegedly assured that the amount would be repaid once the children of Defendant No.1 started earning, but despite repeated requests, the amount was not returned, leading to the filing of the present suit.

ii) The defendants, in their joint written statement, denied the allegations and contended that they had never taken any loan from the plaintiff. They stated that Defendant No.2 met the plaintiff in 2016 when the plaintiff promised to arrange

employment for him and claimed to own a cinema production house. The defendants further asserted that Shankar Lal was later engaged by the plaintiff as a house caretaker at a salary of Rs. 15,000/- per month, which was not fully paid. According to the defendants, the present suit has been filed only to harass them.

iii) To prove his case plaintiff mainly relied upon the print out of his account's statement and exhibit the same as Ex-PW1/4. Despite various opportunities given, the defendants did not lead any evidence and right of the defendants to lead defence evidence was closed vide order dated 12.11.2025. Ld. Counsel for the plaintiff argued that since the defendants have not led any evidence, plaintiff is entitled for the decree.

iv) It is a settled proposition of law that even if the defendant has not led any evidence, the suit of the plaintiff cannot be decreed automatically. The plaintiff must stand on the strength of his own case and is required to discharge the burden cast upon him in terms of Sections 101 to 103 of the Indian Evidence Act, 1872. The weakness of the defence, if any, cannot be a substitute for the proof of the plaintiff's case.

v) In the present case, the entire claim of the plaintiff is based on the allegation that he had advanced a friendly loan to the defendants through various bank transfers and cash payments. However, the plaintiff has failed to place on record legally admissible and reliable evidence to substantiate the alleged

transactions. Though the plaintiff has relied upon Ex-PW1/4 to show transfer of money, the said statements have been produced in the form of printouts of electronic records without the mandatory certificate under Section 65B of the Indian Evidence Act, 1872. It is no more res integra that certificate under Section 65B of the Indian Evidence Act is mandatory to prove any electronic record. In the absence of such certificate, the Ex-PW1/4 cannot be read in evidence. Once the said statement is excluded from consideration, no documentary evidence remains on record to substantiate the alleged transfer of money by the plaintiff to the defendants.

vi) Further, it is an admitted case of the plaintiff that no written loan agreement was ever executed between the parties. The plaintiff has also failed to produce any independent documentary evidence to establish that the amounts allegedly transferred or paid were in fact advanced as a loan. The testimony of PW-2 also does not materially support the case of the plaintiff, as the said witness has only deposed regarding a payment of Rs.10,000/- allegedly made in her presence that too on 15.09.2017 which is clearly barred by limitation. PW-2 is not a witness to the remaining transactions. Moreover, there are material inconsistencies between the testimonies of PW-1 and PW-2 regarding the circumstances in which the alleged financial assistance was sought. PW-2 in her evidence affidavit stated that on 15.09.2017, Shankar Lal came to the residence of the plaintiff and requested the plaintiff to grant a friendly loan. On the other

hand, as per the case of the plaintiff, it was defendant No.1 who had requested financial assistance from the plaintiff.

vii) It is a settled principle that the burden of proving the existence of a legally recoverable debt lies upon the plaintiff in terms of Sections 101 and 102 of the Indian Evidence Act, 1872. The plaintiff must succeed on the strength of his own evidence and cannot rely on the weakness of the defence. In the present case, the evidence led by the plaintiff falls short of the standard required to establish that the alleged amount of Rs. 5,96,216/- was advanced as a loan.

viii) Even otherwise, as per the own case of the plaintiff, the alleged amounts were transferred on different dates between 28.03.2018 and 31.08.2021. It is not the case of the plaintiff that the defendant no. 1 sought loan of Rs. 5,96,216/- in one time. It is only stated in the plaint that defendant no. 1 proposed before plaintiff for some loan amount. In such circumstances, each such payment would constitute an independent transaction giving rise to a separate cause of action. The plaintiff has not been able to show any acknowledgment of liability within the meaning of Section 18 of the Limitation Act, 1963 so as to extend the period of limitation. Therefore, the claim in respect of the earlier transactions up to 03.12.2018 would clearly be barred by limitation.

ix) In view of the aforesaid discussion, this Court is of the considered opinion that the plaintiff has failed to prove that the defendants had taken a friendly loan from him or that the alleged amount is legally recoverable from them. Accordingly, Issue No.1 is decided against the plaintiff and in favour of the defendants.

Issue no. 2: Whether the plaintiff is entitled to pendente lite and future interest on the aforesaid amount, and if so, at what rate? OPP.

i) Since the plaintiff has failed to establish his entitlement to the principal amount, the question of grant of pendente lite or future interest does not arise and issue No.2 is also decided against the plaintiff.

RELIEF

In view of the aforesaid considerations, the instant suit stands disposed of as dismissed.

Decree-sheet be prepared accordingly.

Ordered accordingly.

File be consigned to the record room.

Announced in the open

Court on 16.03.2026

**(Hem Singh)
District Judge-01
(East)/KKD/Delhi**