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IN THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE,

AT JHAGADIA

R. C. S. No.:- 9/2023

Exhibit :-

Plaintiff : State Bank of India,
Jhagadia Branch,
Tal.-Jhagadia, Dist.-Bharuch.

v/s.

Defendants : 1. Dahiben Amarsangbhai Vasava,
Rel. Hindu, Occ. Farming,
Residing at: Patel Faliyu,
Sarkari Boridra,
Tal- Jhagadia, District- Bharuch.

Appearance :-

Learned Advocate for the plaintiff	A. H. Pandya
Learned Advocate for the defendant	Ex-Parte

Subject : -Suit for recovery of Rs. 6,17,716/-

- : : JUDGMENT : : -

1. The plaintiff, State Bank of India, is a banking institution established under law, and its main business is banking. In addition to banking operations, it also provides loans for various purposes. The said bank has numerous branches across India operating at the above-mentioned address and carries on banking business. State Bank of India is an institution established under the State Bank of India Act, 1955, and it also extends credit for various purposes. The said bank has numerous branches across India, one of which is located at Jhagadia.

2. The defendant in this case resides at Sarkari Boridra village and is engaged in the occupation of farming. As defendant required funds for agricultural purposes, defendant applied to the plaintiff bank on 21/01/2020 for a M. C. Revised K.C.C. Loan. The bank accepted the application and decided to sanction a loan of Rs. 6,00,000/-. Upon execution of the necessary documents by defendant, the plaintiff bank disbursed the loan to defendant on 29/01/2020. In this regard, the defendant executed the required hypothecation documents, guarantee letter, and other writings. From time to time, defendant also gave writings, acknowledgments, etc., to the plaintiff bank.

3. As stated above, the defendant had taken a loan of Rs. 6,00,000/- from the plaintiff bank and as per the agreed terms, had accepted the liability to repay the amount regularly along with interest, principal, and costs. Despite this, defendant deposited amounts only intermittently against the said loan. Thereafter, as of 19/12/2022, an amount of Rs. 6,17,716/- remains outstanding against the defendant. Even though defendant was informed from time to time to repay the same, defendant did not pay any amount and kept prolonging the matter by giving false assurances. By not repaying the loan, defendant has also committed breach of trust and cheating against plaintiff bank, for which the right to take separate legal action is hereby reserved.

4. Thus, the defendant was not regularly repaying the loan amount obtained on 29/01/2020 and had breached the agreements and terms entered into with the bank. Therefore, notices were issued to defendant to clear the outstanding amount of Rs. 6,17,716/- as of 19/12/2022. Although the notices were served upon, defendant did not provide any reply. Thus, plaintiff bank repeatedly urging the defendant to pay the outstanding amount, defendant has not paid the said amount. So, the present suit has been filed to recover the said amount.

5. The defendant is duly served with the summons / notice of the suit but then after the defendant did not appeared

before this court nor filed his written statement, hence, this court has closed the right of the defendant to file reply and proceed exparte.

6. The plaintiff bank produced following oral as well as documentary evidence in support of the case.

ORAL EVIDENCE :-

Sr. No.	Particulars	Exhibit
1.	Affidavit of examination-in-chief of the plaintiff's bank.	10

DOCUMENTARY EVIDENCE : -

Sr. No.	Particulars	Exhibit
1.	Account Statement.	12
2.	Copy of Loan Application Form.	13
3.	Copy of Aadhar Card.	14
4.	Copy of Hypothecation.	15
5.	Village form of 8A, Khata no. 23.	16
6.	Village form of 7, Block no. 16-A.	17
7.	Village form of 7, Block no. 16-A.	18
8.	Letter of arrangement.	19
9.	135D Notice.	20
10.	Copy of Identity Card.	21
11.	Copy of Ration Card.	22

12.	Village form of 8A, Khata no.-23.	23
13.	Village form of 7, Block no. 16-A.	24
14	Village form of 7, Block no. 16-A.	25
15.	Revival Letter.	26
16.	Notice.	27
17.	Notice.	28
18.	Lok Adalat Summons.	29

7. The plaintiff side has filed closing pursis vide Exh- **30** stating that the plaintiff side does not wish to lead further any oral or documentary evidence.

8. As observed earlier in the judgment the suit was proceeded ex-parte against defendant. Hence, there is no oral or documentary evidence on behalf of defendant.

9. For determination of this suit, following issues were framed vide Exh.- **9**.

    i. Whether plaintiffs prove that, the Defendant has executed a loan agreement in favour of plaintiff bank for Rs. 6,00,000/- on dt. 29/01/2020 ?

    ii. Whether plaintiff bank is entitled to recover Rs. 6,17,716/- from the defendant with interest of 18% ?

    iii. Whether the suit of the plaintiff is within limitation ?

    iv. Whether plaintiff bank is entitled for the relief as claimed for ?

v. What order and decree ?

10. My findings on the above issues are as under ;

Issues	Findings
Issue No.1	In Affirmative
Issue No.2	In Partly Affirmative
Issue No.3	In Affirmative
Issue No.4	In Partly Affirmative
Issue No.5	As per Final Order

REASONS & ANALYSIS : -

11. Before discussing the issues it is very important to consider the provisions of Sections 101 to 103 of the Indian Evidence Act, the primary burden of proof to prove the issues lay upon the plaintiff itself i.e. *factum probandum*. Further, it is to be borne in mind that the suit of the plaintiff need not necessarily be decreed merely because the defendant has not filed or submitted their written statement or the matter has proceeded ex-parte. To clarify this proposition, it would be necessary to refer one of the decision of the Hon'ble Supreme Court, namely, ***Ramesh Chand Ardawatiya v. Anil Panjwani reported in AIR 2003 SUPREME COURT 2508*** wherein it has been held by the Apex court of the country in para-33

that *"even if the suit proceeds ex-parte and in the absence of a written statement, unless the applicability of O. 8, R. 10 of the CPC is attracted and the Court acts there under, the necessity of proof by the plaintiff of his case to the satisfaction of the Court cannot be dispensed with. In the absence of denial of plaint averments the burden of proof on the plaintiff is not very heavy. A prima facie proof of the relevant facts constituting the cause of action would suffice and the Court would grant the plaintiff such relief as to which he may in law be found entitled. In a case which has proceeded ex-parte the Court is not bound to frame issues under O. 14 and deliver the judgment on every issue as required by O. 20 R. 5. Yet the Trial Court would scrutinize the available pleadings and documents, consider the evidence adduced, and would do well to frame the 'points for determination' and proceed to construct the ex-parte judgment dealing with the points at issue one by one. Merely because the defendant is absent, the Court shall not admit evidence the admissibility whereof is excluded by law nor permit its decision being influenced by irrelevant or inadmissible evidence"*.

So as per this pronouncement of the Apex court, the necessity of the plaintiff to prove his case is not lost even if the matter has been proceeded ex parte.

ISSUE NOS. 1 :-

11.1 The facts of the above issues are similar and hence, decided the same together for the sake of convenience and to avoid repetition of facts.

11.2 In the present case on behalf of plaintiff bank has filed his chief examination as per O. 18 R. 4 of Civil Procedure Code in the form of affidavit at Exh. **10** and the facts stated in chief examination is in line of Exh. 01. In support of the affidavit plaintiff has also produced documentary evidence below Exh. **12 to 29.**

11.3 Against above Evidences, the defendant has not produced any oral or documentary evidence in support of his case.

11.4 Looking to the facts of the case and say of the plaintiff in chief examination at Exh. **10**, it is established that the aforementioned amount is debited in account of defendant and it also transpires that the defendant is failed to pay the said amount of Rs. **6,17,716**/- of the transaction carried out between them. The said of the plaintiff in its suit as well as in the written affidavit of chief examination at Exh. **10** is not challenged by the defendant by furnishing oral and documentary evidence. Further, the defendant has also not cross examined the witness of the plaintiff. Further, the defendant has not appeared before the court during evidence, though defendant has been given sufficient opportunity by this court. On the contrary plaintiff has proved its case by producing oral evidence at

Exh. **10** and documentary evidence produced at Exh. **12 to 29**, from this it transires that the present plaintiff has given a loan of Rs. **6,00,000**/- to the defendant and as per the statement of account Produced at Exh.**12**, it transpires that total amount of Rs. **6,17,716**/- is outstanding in the account of defendant. Further, on perusing the documents produced at Ex. **12 to 29**, it transpires that the defendant has executed the documents in favour of plaintiff bank for loan. Therefore, defendant is liable to pay the outstanding loan amount to the plaintiff bank. Hence, from the above discussion this court believes, that the plaintiff bank has given a loan to the defendant and Rs. **6,17,716**/- is still outstanding in the account of the Defendant. Therefore, issue No. 1 decided in the affirmative.

ISSUE NOS. 2 :-

Further, the plaintiff bank has claimed interest @ **18**% p.a from the defendant and as discussed above the defendant has failed to repay the loan amount. However, as per the provision of Sec. 34 of the Civil Procedure Code, the discretion always lies with the court for awarding interest. Looking to the present situation and circumstances if 7% interest p.a. would be awarded then it is just and proper and it will meet the end of justice. Therefore, the plaintiff bank is entitled to recover the decretal amount from the defendant alongwith the interest @ 7% p.a. from the date of the suit till its realization. Therefore, issue No. 2 has been answered accordingly.

ISSUE NOS. 3 :-

Plaintiff has desposed in his examination in chief on affidavit that defendant was failed to repayment the loan as per the agreement and on demand defendant has executed the revival letter. Plaintiff has produced revival letter below **Exh. 26** wherein defendant has agreed to repay the term loan amount and acknowledge the debt and Plaintiff has filed the present suit on dt. **21/01/2023** which is within the limitation of three year period from the date of acknowledgement of the legal debt. Defendant has been failed to bring any adverse fact on record. Accordingly **issue no. 3** is decided in Affirmative.

ISSUE NOS. 4 & 5:-

As per the discussion of issue no. 1 to 3 plaintiff bank is entitle to recover Rs. **6,17,716/-** at rate of 7% from the date of filing of present suit till it's realization. Hence, **issue no. 4** is decided in partly affirmative and for **issue no. 5** following final order is passed.

- : : FINAL ORDER : : -

1. The present suit of the plaintiff against the defendant is hereby partly allowed.

2. The plaintiff is entitled to recover the amount of Rs. **6,17,716/-** (Rupees Six Lakh Seventeen Thousand Seven Hundred Sixteen Only) from the defendant

along with interest at the rate of 7% on the said amount, thereon from the date of filing of the suit till its realization.

3. The defendant shall pay the cost of the suit of the plaintiff and shall bear their own.

4. Decree to be drawn accordingly.

Pronounced and signed today in open court on 5th of May, 2026.

Date :- 05/05/2026
Place :- Jhagadia.

(E. R. KSHATRIYA)
Principal Senior Civil Judge,
Jhagadia. Code-GJ01197