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**IN THE COURT OF ADDITIONAL CIVIL JUDGE,**

**AT JHAGADIA**

**R. C. S. No.:- 48/2023**

**Exhibit :-**

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

v/s.

**defendantss :** 1. Savailal Barsangbhai Vasava,  
2. Chotalal Barsangbhai Vasava,  
3. Maniben Barsangbhai Vasava,  
Occ. Farming,  
All Residing at: Amalzar, PO. Gundecha,  
Tal-Jhagadia, District-Bharuch.

**Appearance :-**

Learned Advocate for the plaintiff	K. C. Patel
Learned Advocate for the defendants	P. R. Rana

**Subject : -Suit for recovery of Rs. 3,19,165/-.**

**- :: JUDGEMENT :: -**

1. The facts of the plaintiff's case are that the plaintiff is a authorized branch of State Bank of India, it's main function is banking activities. The head office of the said bank is at Bhadra, Ahmedabad and here works under branch at Rajparadi, Tal. Jhagadia. The plaintiff bank works under State Bank of India Act, 1955 and deals in different types of loans. It's branches are situated in all over India include this branch.
2. The defendants reside at the above mentioned address and are engaged in agricultural activities. They applied for a KCC loan from the plaintiff bank on 21/01/2016, which was sanctioned. The respondents were sanctioned a KCC loan of Rs. 2,85,400/-. They executed necessary documents in favor of the plaintiff bank and submitted a Letter of Arrangement, Hypothecation Agreement etc.,

The defendants also mortgaged their agricultural land to the plaintiff bank. The land was registered with the Mamlatdar's office under Section 5(1) of the relevant Act. It was also registered with the Sub-Registrar's office, Jagadia and the documents were explained to respondent Maniben Barsangbai Vasava in Gujarati in the presence of witnesses.

3. As per the above, the respondents were sanctioned a KCC loan of Rs. 2,85,400/- and executed necessary documents. They operated the loan account no. 35643107171 and availed the loan amount. As of 01/02/2023, the respondents owe Rs. 3,19,165/- (Three Lakh Nineteen Thousand One Hundred Sixty-Five Rupees). After that, since the defendants did not repay the loan amount and the plaintiff bank informed the respondents verbally many times, yet the respondents have not deposited the outstanding amount in their loan account. Therefore, this suit is filed within the period of limitation and is not barred by the law of limitation.
4. The defendants is duly served with the summons / notice of the suit but then after the defendants did not appeared before this court nor filed his written statement, hence, this court has closed the right of the defendants to file reply.
5. The plaintiff bank produced following oral as well as documentary evidence in support of the case.

**ORAL EVIDENCE :-**

<b>Sr. No.</b>	<b>Particulars</b>	<b>Exhibit</b>
1.	Affidavit of examination-in-chief of the plaintiff's bank.	15

<b>DOCUMENTARY EVIDENCE :-</b>
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Sr. No.	Particulars	Exhibit
1.	Account Details.	19
2.	Statement of Accounts.	20
3.	Loan Application form.	21
4.	Letter of arrangement.	22
5.	Hypothecation Agreement.	23
6.	Annexure-I.	24
7.	Appendix A.	25
8.	Document given to the defendant Maniben Barsanbhai Vasava.	26
9.	Document given to the defendant Maniben Barsanbhai Vasava.	27
10.	Document given to the defendant Maniben Barsanbhai Vasava.	28
11.	Revival Letter.	29
12.	Revival Letter.	30
13.	Village form of 8A, Khata no. 54.	31
14.	Village form of 7, Survey no. 73/2.	32

6. The plaintiff side has filed closing pursis vide Exh- 34 stating that the plaintiff side does not wish to lead further any oral or documentary evidence.
7. The right of evidence of defendant's was closed by this court vide Exh-35.

8. For determination of this suit, following issues were framed vide Exh.- 11.

- i. Whether plaintiffs prove that, the defendants have taken a loan of Rs. 2,85,400/- from the Plaintiff Bank ?
- ii. Whether the plaintiff bank proves that the amount of Rs. 3,19,135/- is due from the defendants ?
- iii. Whether the plaintiff bank is entitled to get interest? If yes, at what rate ?
- iv. Whether plaintiff bank is entitled to get relief as sought in the suit ?
- v. What order and decree ?

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

<b>Issues</b>	<b>Findings</b>
Issue No.1	In Affirmative
Issue No.2	In Affirmative
Issue No.3	In Partly 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 defendants 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 defendants 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 & 2:-**

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. 15 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. 19 to 32.

11.3 Against above Evidences, the defendants 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.15, it is established that the aforementioned amount is debited in account of defendants and it also transpires that the defendantss are failed to pay the said amount of Rs. 3,19,165/- of the transaction carried out between the father of the defendantss and plaintiff bank. The say of the plaintiff in

its suit as well as in the written affidavit of chief examination at Exh.15 is not challenged by the defendants by furnishing oral and documentary evidence. Further, the defendantss have also not cross examined the witness of the plaintiff. Further, the defendants have not appeared before the court during evidence, though he has been given sufficient opportunity by this court. On the contrary plaintiff has proved its case by producing oral evidence at Exh.15 and documentary evidence produced at Exh.19 to 32, from this it transpires that the present plaintiff has given a loan of Rs. 2,85,400/- to the defendants and as per the statement of account Produced at Exh.19, it transpires that total amount of Rs. 3,19,165/- is outstanding in the account of defendantss as legal heirs of Babarbai Nodiyabhai Vasava. Further, on perusing the documents produced at Ex. 19 to 32, it transpires that the father of defendantss have executed the documents in favour of plaintiff bank for loan. Therefore, they are liable to pay the outstanding loan amount to the plaintiff bank as a legal heirs of Babarbai Nodiyabhai Vasava. Hence, from the above discussion this court believes, that the plaintiff bank has given a loan to the father of defendantss and Rs. 3,19,165/- is still outstanding in the account of the defendantss as a legal heirs of Babarbai Nodiyabhai Vasava. Therefore, issue No. 1 & 2 decided in the affirmative.

**ISSUE NOS. 3 :-**

Further, the plaintiff bank has claimed interest @ **10.25%** p.a from the defendantss and as discussed above the defendantss have 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 defendantss alongwith the interest @ 7% p.a. from the date of the suit till its realization. Therefore, issue No. 3 has been answered accordingly.

**ISSUE NOS. 4 :-**

Plaintiff has desposed in his examination in chief on affidavit that defendantss were failed to repayment and acknowledge the debt in revival letter dt. 14/02/2019 and 29/01/2022 which are produced below Exh. 29 & 30. Plaintiff has filed the present suit on dt. **10/03/2023** which is within the limitation of three year period from the date of acknowledgement of the legal debt. defendantss have been failed to bring any adverse fact on record. As per the discussion of issue no. 1 to 3 plaintiff bank is entitle to recover Rs. 3,19,165/- at rate of 7% from the date of filing of present suit till it's

realization. Accordingly, **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 defendants are hereby partly allowed.
2. The plaintiff is entitled to recover the amount of Rs. 3,19,165/- (Rupees Three Lakhs Nineteen Thousand One Hundred Sixty Five Only) from the defendants 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 defendants 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 25<sup>th</sup> of March, 2026.

**Date :- 25/03/2026**  
**Place :- Jhagadia.**

**(Jaiveer Singh Rathore)**  
**Additional Civil Judge, Jhagadia,**  
**GJ01695**