

GJBK040013692024



Received on : Dt. 26-02-2024  
Registered on : Dt. 26-02-2024  
Decided on : Dt. 20-04-2026

Duration :

**IN THE COURT OF ADDITIONAL SENIOR CIVIL JUDGE**  
**AT DEESA, DISTRICT BANASKANTHA**

**Regular Civil Suit No.67/2024**

**Bank of Baroda**  
**Zerda Branch,**  
**Manojkumar (Branch Manager)**  
Age- 54, Occupation- Job  
Address- Zerda  
Ta- Deesa, District- Banaskantha,

**... Plaintiff**

**Versus**

- (1) Valabhai Ranchodbhai Kanbi**  
Age- 55, Occupation- Agriculture  
Address- Pechdal, Ta- Deesa, Dist- Banaskantha
- (2) Dahyabhai Kanjibhai Kanbi**  
Age- Adult, Occupation- Agriculture  
Address- Pechdal, Ta- Deesa, Dist- Banaskantha
- (3) Arjanbhai Motibhai Kanbi**

Age- Adult, Occupation- Agriculture  
Address- Pecchdal, Ta- Deesa, Dist- Banaskantha

**(4) Nanjibhai Mashrubhai Harijan**

Age- Adult, Occupation- Agriculture  
Address- Pecchdal, Ta- Deesa, Dist- Banaskantha

**(5) Vihabhai Kanabhai Harijan**

Age- Adult, Occupation- Agriculture  
Address- Pecchdal, Ta- Deesa, Dist- Banaskantha

... Defendant

**Subject- Money suit to recover an amount of Rs.9,15,403/- full**

**Appearance :**

Ld.Advocate for Plaintiff : K.V. Gelot

Ld. Advocate for Defendant : R.G. Desai

**: JUDGMENT :**

**1. Case of the plaintiffs :**

The plaintiff bank that is “Bank of Baroda” is established under the Banking Companies Acquisition and Transfer Act 1970 by the Government of India and has main branch at Mandvi, Vadodara and has its regional office at Banaskantha at Palanpur. The plaintiff bank has one of its branch at Zerda and is engaged in the banking work and the plaintiff bank has given the right to

file the complaint on its behalf to the branch manager and has also signed in the suit on behalf of the plaintiff bank.

2. The defendant No.1 has availed crop loan as per the terms and conditions of the plaintiff bank and the plaintiff bank has accepted the loan application and the defendant No.2,3,4,5 has signed as guarantors on behalf of the defendant No.1 and in this way crop loan of sum of Rs.3,00,000/- on the date of 23/10/2019 was given and a account No.80290500000014 was maintained by the plaintiff bank and another agricultural loan of Rs.2,60,000/- was given by the plaintiff bank on the date of 23/03/2018 and a account No.80290500001859 was maintained by the plaintiff bank for this loan. The borrower of the loan and the guarantors has signed necessary document such as D.P note, Hypothecation Agreement, Letter of Guarantee, Letter of Acknowledgment of Debt and has also accepted the terms and conditions of the loan.
3. The defendant No.2,3,4,5 has signed as guarantors for the defendant No.1 in the said loan and so the defendant No.2,3,4,5 are both liable as the defendant No.1 to pay the loan as well as the interest amount of the loan taken. The defendant No.1 has mortgaged the land having survey No.578 situated at village of Pecchdal, Ta- Deesa, Dist- Banaskantha admeasuring Hect. 0-77-44 sqmtrs and land having survey No.583 admeasuring Hect. 0-90-68 sqmtrs and land having survey No.587 admeasuring Hect.0-48-32 sqmtrs to avail the loan from the bank, and as per the rules of the Reserve Bank of India the plaintiff bank has right to sell the above said land to recover the said loan from the defendant and the defendant are liable to pay the interest of the

loan amount and the difference in the interest rate as per the terms and conditions accepted by them while availing the said loan from the plaintiff bank.

4. The defendant in this suit has not repaid the loan given to the plaintiff bank in due time. From the defendant the plaintiff bank owes the following amount and interest accrued thereafter from the date as on 03/02/2024 was Rs.9,15,403/-. And despite the terms and conditions the defendant has not repaid the loan amount and so the plaintiff bank has brought the suit against the defendant to recover the said money.

**: ISSUES :**

1. Whether the Plaintiff proves that Defendant No.1 has given necessary document to avail the loan ?
2. Whether the Plaintiff proves that the Defendant No.2 to 5 has signed as guarantors for the loan taken by Defendant No.1 ?
3. Whether the Plaintiff proves that the Defendant owes sum of Rs.9,15,403/- ?
4. Does the Plaintiff is entitled for the relief as prayed for ?
5. What order and decree ?
5. My findings to the above referred issues are as under:

1. In Affirmative.
2. In Affirmative.
3. In Affirmative.
4. Partly In Affirmative.
5. As per the final order.

6. The plaintiff has produced the following documents vide Exh-21 to substantiate their case:

**Plaintiff Side:**

**ORAL EVIDENCE:**

<b>Sr.No.</b>	<b>Particulars</b>	<b>Exhibit</b>
1.	Examination in chief of Mr. Sidharthkumar Sahay	Exh-20

**DOCUMENTARY EVIDENCE:**

<b>Sr.No.</b>	<b>Particulars</b>	<b>Exhibit</b>
1.	Hypothecation Agreement	32
2.	Letter of Guarantee	33
3.	Letter of Acknowledgment of Debt	34
4.	Gaam namuna form 8	35
5.	Gaam namuna form 7	36
6.	Hakkpatrak nondh	37
7.	Authority letter	38
8.	Bank statement of the defendant	39

**Defendants side-**

7. The Learned Advocate for the plaintiff has submitted closing pursis vide **Exh.40**. Heard the arguments made by the Ld.Advocate for the plaintiff-bank. The right of the cross examination by the accused is stopped vide **Exh-31** and the right of the answer of the defendant is stopped vide **Exh-10**. The Ex-Parte order passed vide **Exh-9 and Exh- 1**.
8. The defendants did not adduce any evidence in the court, however, the burden to prove the case is totally on the shoulder of the plaintiff, because it is very well settled principle of law that the party has to prove his case on his own strength and can not take advantage of weakness of the opposite party. So, in the light of above referred principle, this court scrutinized the entire pleading, evidence and argument raised by Ld.Advocate for the plaintiff with microscopic view.

### **ISSUE NO.1 to 3**

9. Issue no 1 to 3 are co-related, the same are being dealt with together as to the fact that the plaintiff proves that Rs.9,15,403/- (Rupees Nine Lakh Fifteen Thousand Four Hundred Three only) is due from the defendants. Considering the documentary evidence produced at **Exh.32 to 39**, it clearly appears and proved that the Defendant had requested the plaintiff bank for Loan and had duly applied in prescribed applications along with the requisite documentation such as Letter of Guarantee, loan application, Draft undertaking, letter of agreement etc and the said application came to be accepted by the plaintiff bank

accordingly the Defendant were granted above said loan of Rs.3,00,000/- on the date of 23/10/2019 and sum of Rs.2,60,000/- on the date of 23/03/2018 was given. All the required documentations for sanction of the loan came to be executed by the defendants in favour of the bank. It is further the case of the plaintiff bank that the Defendant is accordingly required and bound to pay the aforesaid loan along with the interest as per the terms and conditions of the applications. The defendant had submitted all the required documents and on going through the plaint, it reveals that the manager of the Bank had filed a suit against the defendants. The same facts have been narrated by the plaintiff's witness in his affidavit U/o.18 R.4 of the code. Further,being a head of the bank,all powers are within him in case of a loan being challenged by the other side.

10. So far as this issue is concerned, it is with documentation. To prove the case, in support of the pleading and documentary evidence,the officer of plaintiff bank has filed an affidavit of evidence under 0.18,R.4 of the code at **Exh.20**. The witness declared on oath in his affidavit of chief examination that the defendant had requested for the above said loan for which, the Defendant had executed a loan agreement in the favour of the plaintiff bank. Thereafter, as Defendant did not make full payment against the loan amount therefore, the present suit is filed by the plaintiff to recover the due amount. On considering the above documents & facts, the said documents seem to be made by the bank officials in the computer generated system. There is no reason to disbelieve the said documents. In the the present case, the witness as a responsible officer of the plaintiff

bank has given evidence on oath in support of books of account. The same is not challenged by the defendants. Hence, there is no reason to disbelieve the oral version of the plaintiff and documents produced by the plaintiff at **Exh.32 to 39**. Further, it is crystal clear that the defendants have mortgaged their property i.e. land having survey No.578 situated at village of Pecchdal, Ta-Deesa, Dist- Banaskantha admeasuring Hect. 0-77-44 sqmtrs and land having survey No.583 admeasuring Hect. 0-90-68 sqmtrs and land having survey No.587 admeasuring Hect.0-48-32 sqmtrs is mortgaged and the copies of Abstract of Village Form No.7, 8 with mortgage Entry No.4447 have been produced in which there is entry of mortgage. The same is not challenged by the defendants. Hence, there is no reason to disbelieve the oral version of the plaintiff and documents produced by the plaintiff at **Exh.32 to 39**.

11. I have gone through the entire oral as well as documentary evidence. The version made on oath by the witness is in the capacity of branch manager of the plaintiff bank. The version made on the oath by the witness has not been challenged by the defendants. Hence, there is no reason to disbelieve the evidence of the plaintiff. As discussed above, defendants have not appeared & the matter proceeded ex-parte. In the light of the above-said facts, it proves that the defendants had executed the loan papers towards the plaintiff-bank and put their property in mortgage. And as per the ledger abstract, there is due of **Rs. 9,15,403/-** against the defendants and for which the plaintiff bank is entitled to get the dues from the person as well as from the property of the defendants.

12. So, as per the above referred judgments of Hon'ble supreme court, an adverse inference is drawn against the present defendant. Hence, in absence of cogent evidence challenging the procedure of plaintiff, this court firmly believes that the defendants have not paid the due amount of loan. Thus, on the basis of oral evidence and documentary evidence, the plaintiff succeeded to prove that the loan amount is due from the defendants. Thus, after hearing the arguments of the Ld. Advocate for the plaintiff, evidence & findings to the aforesaid issues. This court hereby decides issue No.4 in positive and passes the following final order to the Issue No.5 in the interest of Justice:

**: ORDER :**

- (1) It is hereby ordered that the defendant do pay the due amount of Rs.9,15,403/- (Rupees Nine Lakh Fifteen Thousand Four Hundred Three) at the rate of 6% p.a from the date institution of suit till its realization.
- (2) Defendants to bear the cost of their own as well as cost of suit of the plaintiff.
- (3) Decree to be drawn accordingly.

Pronounced the judgment in the open court today i.e.

Date- 20/04/2026  
Place- Deesa

(U.M. Ahir)  
Addl Senior Civil Judge  
UID No. GJ01473