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Decided On : 18/04/2026

Duration : 02 00 10

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**IN THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE  
AT NAKHATRANA.**

**COMMERCIAL SUIT NO. 19 OF 2024**

Exhibit :-

**PLAINTIFF:**

**Gujarat Gramin Bank**

Nakhatrana Branch

Through the Branch Manager,

Manojkumar

Age-27, Occupation-Job,

R/o. Nakhatrana,

Ta. Nakhatrana-Kachchh

**VERSUS**

**DEFENDANT:**

**Legal Heirs of Late Danoji**

**Alias Daansangji Alias Daansinh**

**Haajaji Alias Haanjaji**

**1/1). Raamsinh Daanoji Sodha**

Age-21, Occupation-Agriculture.

R/o.- Chandranagar, Tal. Nakhatrana-Kachchh

**2). Sodha Satidaan Haajaji Alias Haanjaji**

Age-46, Occupation-Agriculture,

R/o. Bibar, Tal.Nakhatrana-Kachchh.

SUB: SUIT FOR RECOVERY OF AMT. RS.3,97,740/-

**APPEARANCES:**

Mr. J.K.Chinarana, Ld. Advocate for the Plaintiff.

Mr. M. R. Harsh Ld. Advocate for the Defendant No.1,

Ex-Parte for the Defendant No.2.

**:- J U D G M E N T -:**

1. The plaintiff has filed the present suit to recover Rs. 3,97,740/- from the defendants contending therein that, defendants having applied for CCKCC Loan for amount of Rs.3,00,000/-on dt.25/05/2018 vide A/c. No. 763113050196 from their branch. The defendants have executed necessary documents in favour of bank and obtained loan from the bank. The defendants have hypothecated their land in favour of bank and obtained loan from the bank. That, the defendants were to repay the loans amount with arrears interest as per the terms and conditions of the agreement. It is further contended by the plaintiff that, plaintiff has repeatedly requested defendants verbally as well as writing to regularize the aforementioned account but defendants have failed and neglected to do so, in spite of the promises and assurances given by the defendants to the plaintiff. Hence, the plaintiff issued Legal Notices dated 28/10/2022 through its counsel, calling upon the defendants to pay dues with applicable interest, costs and other charges to the

plaintiff. The said notice though served on defendants, did not yield any positive result. Hence, the plaintiff is constrained to file the present suit for recovery of its dues.

2. Summons have been duly served on defendants, but the defendant No.1 has not filed written statement and objection of his defense, Hence, his right for adducing written statement was closed. Proceed suit ex party against defendant No.2.

3. Considering pleading of the plaintiff and facts of the case, following issues were framed at Exh.-16 for determination of the suit:-

1. Whether the plaintiff-Bank proves that he had advanced the loan facilities to the defendant and as the defendant had not repaid the due amount, the plaintiff is entitled to recover his dues of Rs. 3,97,740/-?

2. Whether the plaintiff is entitled to get interest ? If yes, at what rate ?

3. Whether the plaintiff is entitled for relief as prayed for ?

4. What order and decree ?

4. My findings to the above issues are as under:-

- (1) **In the Affirmative.**
- (2) **In the Affirmative.**
- (3) **In the Affirmative.**
- (4) **As per final order.**

**5.** In support of the suit, the plaintiff has produced following oral as well as documentary evidence:-

**ORAL EVIDENCE**

| <b>SR. NO.</b> | <b>NAME OF THE WITNESS</b>  | <b>EXH.</b> |
|----------------|---|-------------|
| 1.             | Examination of chief on Affidavit, Parikshitkumar Pravinchadra Thakkar, Branch Manager, Nakhatrana Branch, Ta. Nakhatrana-Kachchh | 18          |

**DOCUMENTARY EVIDENCE :**

| <b>SR. NO.</b> | <b>DESCRIPTION OF THE DOCUMENTS</b>   | <b>EXH.</b> |
|----------------|---|-------------|
| 1              | Original Copy of Non-Starter Report by the Mediation Center                               | 21          |
| 2              | Original Copy of Non-Starter Report by the Mediation Center                               | 22          |
| 3              | True Copy of Authority  | 23          |
| 4              | True Copy of Loan Application Form of KCC   | 24          |
| 5              | True Copy of Demand Promissory Note   | 25          |
| 6              | True Copy of Letter of General Lien and set off for borrowing arrangements from borrowers | 26          |
| 7              | True Copy of Hypothecation Agreement for Agricultural Loan.                               | 27          |
| 8              | True Copy of A/c. No.421 of Form-8A of village Bihar.                                     | 28          |
| 9              | True Copy of Form-7 of Survey No.618/Paiki 65 of village Bihar.                           | 29          |
| 10             | True Copy of Entry No.2246 of Form-6 of village Bihar.                                    | 30          |
| 11             | True Copy of Entry No.2970 of Form-6 of village Bihar.                                    | 31          |
| 12             | True Copy of Certificate of Sub-Registrar of Nakhatrana.                                  | 32          |

|    |  |    |
|----|--|----|
| 13 | True Copy of Legal Notice sent to the Defendants through the Plaintiff's Advocate. | 33 |
| 14 | True Copy of Account Statement of the Defendants.                                  | 34 |
| 15 | True Copy of Debt Acknowledgment Letter.   | 35 |
| 16 | True Copy of Gazette.  | 36 |
| 17 | Copy of Gazette of India.  | 37 |
| 18 | Copy of Authority.   | 38 |

**5.1.** Learned advocate for the plaintiff has filed closing pursis at Exh.-40.

**5.2.** No oral and documentary evidence is adduced on record for the defendants.

**6.** I have heard learned Advocate for the plaintiff. He has argued as per the facts of the case. I have gone through the oral and documentary evidence produced by the plaintiff.

**7.** The reasons for the issues framed above are as under

**-: REASONS :-**

**ISSUE NOS. 1 TO 4.**

**8.** All these issues are inter-linked with each-other and finding of one issue depends upon one-another therefore, to avoid repetition of the facts and for the sake of brevity and convenience, I have discussed and decide these issues conjointly.

**9.** In this case, it is pertinent to note that despite service of summons, the defendants has not appeared before this Court and as such there is no any written statement and thus, there is no contest from the defendant's side. Therefore, before appreciating

the evidence on record, it would be appropriate to refer the provision of Order 8 Rule 5 of the Civil Procedure Code and amendments to it and its application to commercial disputes i.e. as under:

**ORDER 8 Rule 5 "Specific denial"**

(1) Every allegation of fact in the plaint, if not denied specifically or by necessary implication, or stated to be not admitted in the pleading of the defendant, shall be taken to be admitted except as against a person under disability :

Provided that the Court may in its discretion require any fact so admitted to be proved otherwise than by such admission. "Provided further that every allegation of fact in the plaint, if not denied in the manner provided under Rule 3A of this Order, shall be taken to be admitted except as against a person under disability."

(2) **Where the defendant has not filed a pleading, it shall be lawful for the Court to pronounce judgment on the basis of the fact contained in the plaint, except as against a person under a disability, but the Court may, in its discretion, require any such fact to be proved.**

(3) In exercising its discretion under the proviso to sub-rule (1) or under sub-rule (2), the Court shall have due regard to the fact whether the defendant could have, or has, engaged a pleader. Whenever a judgment is pronounced under this rule, a decree shall be drawn up in accordance with such judgment and such decrees shall bear the date on which the judgment was pronounced.

Therefore when the defendants have not filed the written statement, the Court has ample powers to pass the decree on the basis of the evidence produced by the plaintiff. The Court is also empowered to call for the plaintiff to produce his evidence and prove his case.

**10.** In support of the suit, from the plaintiff's side, Parikshitkumar Pravinchadra Thakkar, Branch Manager, Nakhatrana Branch, Ta. Nakhatrana has filed his affidavit for examination-in-chief under Order 18 Rule 4 of C.P.C., vide Exh.-18 wherein he has repeated the facts of case as stated in plaint, identified signature of officer and urged to give

exhibit to the documents produced in case and allow the suit and grant the prayer. Accordingly, in absence of any rebuttal evidence from the defendant's side, the documents produced being original and certified copies of the documents, produced from the custody of plaintiff, the said documents were exhibited and were given Exhibit accordingly from Exh.-21 to Exh.-38 respectively.

**11.** Defendants applied for CCKCC Loan of Rs. 3,00,000/-. Plaintiff has submitted Loan Application Form, Demand Promissory Note, Letter of General Lien and set off for borrowing arrangements from borrowers, Letter of Continuing and the Hypothecation Agreement at Exh.-24 to 27 respectively. The defendant was granted loan of Rs.3,00,000/- on 25/05/2018.

**11A.** It is the say of plaintiff that defendants have not paid the loan amount together with outstanding dues and interest, it comes to the extent of Rs.3,97,740/-. It appears from the legal notice Exh.-33 dtd. 28/10/2022 that the defendants had not paid amount and there was outstanding to the tune of Rs.3,97,740/- till the date of issuance of legal notice. Therefore, there is no escape from the conclusion that defendants had obtained loan of Rs.3,00,000/- from the plaintiff and not paid any amount therefore plaintiff filed the suit. It is pertinent to note that, in Hypothecation Agreement, it is clearly specified that the Borrower(s) shall pay interest on the loans to be calculated on the daily balance in the loan account(s) with monthly/quarterly/half yearly or other rest according to the practice of the bank. The plaintiff's witness has supported the case of the plaintiff in his examination-in-chief vide Exh.-18 and he was not cross examined by the defendants or his representative as the

defendants had remained absent during the entire course of proceedings. Therefore, there is no reason to disbelieve the facts narrated by the plaintiff. Under the set of evidence produced on record, and above discussions, it is undoubtedly proved that defendant had obtained CCKCC Loan of Rs. 3,00,000/- from the plaintiff and not repaid the same and the interest on the principal due amount accrued thereon makes the total due as Rs.3,97,740/-. Since the suit is not contested, adverse inference can be drawn against defendants that defendants were at fault and having no defense on their side, has chosen to remain absent and has deliberately avoided repayment to bank. In view of the above discussions and set of facts appearing in the case, the unchallenged facts stated on oath by the plaintiff's witness at Exh.-18, coupled with documentary evidence vide Exh. 21 to 38 suffice this Court to come to conclusion that plaintiff has successfully proved its case that Rs.3,97,740/- is outstanding against the defendants and despite demand lastly through legal notice also the defendants have not paid the due amount.

**11B.** It is well proved facts that the plaintiff had given loan to the defendants on 25/05/2018. The hypothecation agreement were also executed on the same day. Ordinarily, the suit for recovery requires to be filed within 3 years. Admittedly, the present suit was filed on 08/04/2024 for the loan dtd.25/05/2018. Further, the plaintiff has also produced Debt Acknowledgment form at Exh.35 dtd. 15/05/2021 for his dues. The said document also bears Thumb impression/signature of the defendant No.1,2, therefore, the suit is within time limit.

**11C.** It is pertinent to note that the plaintiff has claimed the suit amount together with arrears interest as per rules of Bank. In the case of **Union Bank of India V/s.Narendra Plastic reported in AIR 1991 Guj 67** Hon'ble High Court Held that Rate of interest is also discretion of the court. If there is an agreement between the parties, normally, the court will adhere to it and will award interest as agreed unless there are reasons to depart therefrom. The rate of interest would be that on which moneys are lent or advanced by nationalized bank in relation to commercial transaction. In commercial transaction, grant of interest at the contractual rate ought to be the rule and grant of interest at reduced rate is a rare exception. Therefore, considering present contractual rate of interest, I am of the view that it would meet ends of justice if the suit amount is allowed with 10% interest from the date of institution of suit hence, answer of Issue No. 1,2,3 is accordingly in the affirmative.

**12. ISSUE NO. 4:**

Consequent upon the foregoing discussions the suit of the plaintiff bank succeeds and following order is passed in the interest of justice.

**-: ORDER :-**

- [1] Suit is hereby allowed with cost.
- [2] The plaintiff bank entitled to recover the sum of Rs. Rs.3,97,740/- (Rupees Three Lakh Ninety Seven Thousand Seven Hundred Forty Only) from the defendants Jointly and severally, together with 10% interest from the date of suit till realization of the amount.

[3] Plaintiff is also entitled for the cost of suit from the defendant.

[4] Decree be drawn accordingly.

Signed and Pronounced in open Court today this 18<sup>th</sup> of April, 2026.

Place : Nakhatrana

Date: 18/04/2026

**(R. A. Zala)**

Principal Senior Civil Judge  
Nakhatrana, Dist.Kachchh.  
JUDGE CODE GJ00938

| Meet |