GJSK040036862022

Presented on : 17-12-2022
Registered on : 17-12-2022
Decided on : 20-07-2026
Duration : YY-MM-DD

IN THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE
IDAR, DIST. SABARKANTHA

Regular Civil Suit No. 58/2022
Exh. : 29

Plaintiff: State Bank of India,
Head Office Madam- Kamaroad, Mumbai,
Regional Head Office Bhadra-Ahmedabad,
Branch, Vijay Market, Ta. Idar,
District Sabarkantha
Through its Branch Manager
Shri Kiritbhai Savjibhai Chavda, Aged about:- 37

VERSUS

Defendants: **Patel Somabhai Shankarbhai**
Resi. Of:- Kamalpura, Taluka:- Idar,
District:- Sabarkantha

:: Suit for recovery of Rs.2,73,697/- ::

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Appearance :

Mr. L. M. Jetavat	**Learned advocate for the plaintiff**
None	**Learned Advocate for the defendant**

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

01. The plaintiff has filed this Regular Civil Suit against the defendants to recover the due amount of **Rs.2,73,697/- (Rupees Two Lac Seventy Three Thousand Six Hundred and Ninety Seven Paise only)**.

02. That the plaintiff is a Corporate Body of Banking, registered under the Banking Companies Acquisition and Transfer of under taking Act, 1956, having its one registered branch situated at Kama Road, Mumbai and its Regional office at Bhadra-Ahmedabad and one branch at Vijay Market, Idar and having its branches in different cities too and the Branch Manager namely Kiritbhai Savjibhai Chavada, has filed the present suit, petitioner of Bank as the he has been delegated as an authorized person of the Bank.

03. In the present case, the defendant had filed the application of KCC Loan of Rs.3,00,000/- (Rupees Three Lac Only) through the plaintiff on the basis of loan agreement and mortgage his land situated at Kamalpur, Taluka Idar and the description of the property is as under,

"Account No. 111 of Old Block Survey No. 86 paiky, 107 paiky, 181 paiky, 191 paiky, 455a paiky and 498 paiky, corresponding New Block Survey No. 816,848,652,631,412,418,419,439 ad measuring in aggregate 1 Hectare 37 Are and 50 Sq. Metres of agricultural land."

04. Defendant had accepted all the terms and conditions of the loan agreement, as per the Section 5 of the Gujarat Agricultural Credit (Provision of Facilities) Act, 1979 Section. The said agreement has been made in presence of Deputy Executive Magistrate, Idar and above mentioned property had been mortgage to the plaintiff with the Village Form No. 6 Entry No. 1392 on dated 15.03.2012 and the defendant had give all the essential documents to the plaintiff wherein signature upon the agreement and he had given an assurance that he shall paid the loan amount as per the loan agreement within prescribed time along with interest and thereafter, amount of loan was credited to the KCC loan account No.32266541428 of defendant. Thereafter, defendant was irregular in making payment of the said loan amount though several reminders were given by the plaintiff-bank to the defendant. The Plaintiff bank as per banking practice has classified the account of the defendant as NPA on dated 30.09.2020. Thereafter, plaintiff had sent a legal notice to the defendant through its advocate on dated 14.11.2022. Notice was served to the defendant. Defendant has neither replied to the notice nor had deposited the outstanding amount in the bank. Defendant had signed on hypothecation agreement and other necessary documents in favour of the plaintiff at the time of agreement. Thus, plaintiff is entitled to recover outstanding amount of Rs.2,73,697/- along with the interest. It was brought to the knowledge of the defendant but the defendant do not act upon the same. One demand notice was sent by the plaintiff on 14.11.2022 to the defendants. It is the say of the plaintiff that the defendants had not replied to the notice and no payment was initiated by the defendant and thus plaintiff filed the present suit for Rs.2,73,697/- (Rs. Two Lac Seventy Three Thousand Six Hundred and Ninety Seven Paise Only) along with interest per annum from dated 17.12.2022 and prayed for same interest till realization of said amount.

05. It is the say of the plaintiff that the loan amount, as per the agreement, was not paid by the defendants. On basis of this, the plaintiff has made following prayer.

(a) To pass a decree in favour of plaintiff and against the defendants for recovery of Rs.2,73,697/- along with costs and interest from the defendant or hian movable or immovable property either jointly or severally.

(b) Cost of the suit.

(c) Any other relief which Hon'ble Court deems fit.

06. After filing the present suit, summons were issued to the defendant, which were duly served to the defendant, however, the defendant remained absent. Thereafter, ample opportunity has been provided by the Court, however, the defendant has failed to file his reply. In view of the above fact, Court has passed an ex-parte order below Exh. 1 against the defendant no.1 on dated 06.04.2023.

07. In support of his case, the plaintiff has produced following oral as well as documentary evidence.

ORAL EVIDENCE :

Sr. No.	Name of evidence	Exh. No.
01.	An affidavit of plaintiff in form of deposition.	15

DOCUMENTARY EVIDENCE :

Sr. No.	Name of evidence	Exh. No.
01.	Copy of Application Form for agriculture	17

02.	Copy of Memorandum for Sanction	18
03.	Letter of Agricultural Advances	19
04.	Village Index No. 8-A	20
05.	Original Letter No. 6	21
06.	Village Index No. 8-A	22
07.	Village Index No. 6	23
08.	Statement of Account	24
09.	Certified copy of demand notice	25
10.	Acknowledgment	26
11	Copy of Resolution	27

08. Thereafter, plaintiff has produced closing pursis at **Exh. 28.** No any oral or documentary evidences have been produced by the defendant side.

09. I have heard the argument of learned advocate Mr. L. M. Jetavat on behalf of the plaintiff and has prayed for the grant of relief mentioned in the plaint at Exh. 1. Also have argued that the defendant has not produced any kind of evidence and indirectly have accepted the claim of the plaintiff. Hence, the suit should be decreed.

10. In view of the pleadings and documentary evidences as above, the following issues have been framed by my learned predecessor at **Exh.08**.

:: **I S S U E S** ::

1. Whether the plaintiff bank proves that the plaint has been signed and verified by the authorized person of the Bank?
2. Whether plaintiff bank proves that defendant has taken loan from the bank and he has executed documents in favour of bank as alleged ?

3. Whether the plaintiff bank proves that they are entitled to recover Rs. 2,73,697/- jointly and severally from person and properties of the defendant?
4. Whether the plaintiff bank is entitled to get interest? If yes at that rate?
5. Whether this suit is in limitation?
6. Whether the plaintiff is entitled to get relief as prayed for?
7. What order and decree ?

11. My answer to the above issues are as under :

1. In affirmative.
2. In affirmative.
3. In affirmative.
4. In affirmative.
5. In affirmative.
6. In affirmative.
7. As per final order.

:: R E A S O N S ::

Issue Nos. 1 to 6 :

12. The Issue nos. 1 to 6 are inter linked and thus are discussed together in order to avoid repetition and ambiguity.

13. To prove the issue as to whether the plaint has been signed and verified by a duly authorized officer of the plaintiff Bank, the plaintiff has relied upon the documentary evidence produced at **Exh.4**. The plaintiff has produced the loan application form at **Exh.17**, submitted by the defendant seeking the KCC loan, the loan sanction letter at **Exh.18** issued in favour of the defendant, and the Agricultural Advance Letter at **Exh.19**. The plaintiff has further produced the revenue records in Form Nos. 7/12 and 8-A pertaining to the mortgaged property at **Exh.20**, the mortgage letter executed by the defendant at **Exh.21**, and the statement of account at **Exh.24**. The statement of account clearly reflects that the loan amount was depsoited to the defendant's account. The plaintiff has also produced the legal demand notice issued to the defendant along with the acknowledgment receipt in support thereof. While careful perusing the documentary evidence which is produced by the plaintiff, taking the aforementioned pleadings as well as the oral evidences conjointly into consideration, it is apparent that the defendant had taken a loan from the plaintiff bank and executed the documents in favour of plaintiff bank as alleged.

14. On perusal of the above referred documents, it is uncontested that the defendant had availed a loan of Rs.3,00,000/- from the plaintiff bank by executing documents at **Exh. 17 to Exh. 27**. It is further uncontested that defendant had failed to repay the loan amount. Now, by referring the contentions of the plaint and the documents produced by the plaintiff, plaintiff has claimed for seeking the decree for consideration of Rs.2,73,697/- and in support of his claim, the documentary evidences produced by the plaintiff are also perused. On perusal of documents, it appears that at **Exh.24**, plaintiff has submitted statement of account wherein total outstanding amount is shown to Rs.2,73,697.59/-. It transpires that defendant is responsible for the outstanding dues.

15. Further, plaintiff has served legal notice to the defendant. The said legal notices were neither replied by the defendant nor the defendant has bothered to remain present in the Court after service of the summons. Therefore, at this stage, it is profitable to taken into consideration the Provision of Order XXXVII Rule 2 (3) of C.P.C. and looking to the Judgment of **Vijaya Homes Loan Ltd. V/s. M/s. Crown Traders Ltd.** reported in **A.I.R. 1998 Delhi 182** under Order XXXVII Rule 2 (3) of C.P.C., the legal proposition is declared that, 'if the defendant fail to appear within 10 days of service of summons, it shall be deemed to be admitted the allegations made in the plaint'. The said ratio and judgment is applicable to the facts of the present case. In the present case, the defendant has not tried to contradict the pleadings of documents produced by the plaintiff-bank. Hence, looking to the judgment cited above, the Court has to pass *ex-parte* decree. Hence, perusing the oral evidence led by the plaintiff, there is nothing to disbelieve the contentions that the defendant had received Crop loan K.C.C. of Rs.3,00,000/- (Rupees Three Lac Only) through the plaintiff bank on dated 16.03.2012 and amount of Rs.2,73,697/- was due on defendants on dated 06.04.2023. The say of the plaintiff in the suit as well as in written affidavit of examination-in-chief at **Exh.15** is not challenged by the defendants. The defendant has not produced any documentary and oral evidence in support of his case. The defendant has failed to place any material on record to rebut the said evidence or to establish that the outstanding amount has been discharged. To prove legal dues, it shows that on the date of 29.09.2018, due is Rs.2,73,997/-. Therefore, the defendant has availed loan on dated 16.03.2012. Further, he has renewed the loan on 18.06.2018 and has accepted the loan liability within three years from the loan date. Thereafter, the total outstanding amount due is of Rs.2,73,697/-. Accordingly, the plaintiff has successfully proved its entitlement to recover the outstanding amount from the defendant.

16. So far as interest rate is concern, the plaintiff has prayed for interest in his relief. Looking to the present transaction and documents produced vide **Exh.24**, the rate of interest at the rate of 10.60% p.a. has been counted on the loan. The plaintiff advocate argued that the rate of interest is decided by the Reserve Bank of India. This Court is agree with the submission with the learned advocate that as per the document, the defendants are bound to pay the interest as per the prevalent conditions made by R.B.I. Also as per the S.34 of Civil Procedure Code, when there is specific contract between the parties regarding the payment of interest, the court is in discretion to grant the contractual interest. As per judgment passed in the case of **"*Anshumansinh Vs. State of UP & others* reported in 2004(3) CCC 19 Allahabad*"*,** wherein it is held that the interest if not allowed on payment due, then even a losing party actually wins the case. Therefore, the plaintiff-bank is entitled to get the dues with interest @ 10.60% as per the Hypothecation Agreement from the date of filing the suit till decree. Therefore, considering the fact that the present transaction is a commercial transaction and the loan has been availed for agricultural purpose, therefore, the plaintiff bank is liable to recover an amount of Rs.2,73,697/- from defendant at the rate of 10.60% p.a. from the date of decree to till realization.

17. So far as the question of limitation is concerned, the documentary evidence on record establishes that the defendant renewed the loan account and acknowledged his liability on dtd 18.06.2018, thereby extending the period of limitation under Section 18 of the Limitation Act, 1963. The present suit has been instituted within the prescribed period of limitation. Hence, the suit cannot be said to be barred by limitation.

18. In view of the foregoing discussion, this Court is of the view that the plaintiff Bank has successfully established that the defendant had availed the loan and executed the necessary loan documents in favour of the plaintiff and the defendant has committed default in repayment of the loan, therefore, the plaintiff Bank is entitled to recover Rs.2,73,697/- from the defendant together with interest at the rate of 10.60% per annum from the date of the decree until realization up to the date. The plaintiff has also established that the suit has been filed within the period of limitation. Consequently, Issue Nos.1 to 6 are answered in the "**Affirmative**" and accordingly and for issue No. 7, the following order is required to be passed in the interest of natural justice:-

:: FINAL ORDER ::

01. The suit of plaintiff is hereby **"Allowed"**.

02. It is ordered that the defendant shall pay **Rs. 2,73,697/- (Rupees Two Lac Seventy Three Thousand Six Hundred and Ninety Seven Only)** jointly and severally with simple interest at the rate of **10.60% p.a.** from the date of decree to till the date of realization of money.

03. The defendant is directed to bear their own costs and the plaintiff's costs.

04. Decree be drawn accordingly.

Signed and pronounced in the open Court today on 20th day of July, 2026.

Place : Idar
Date : 20.07.2026

//Sisodiya//

(Dr. S. D. Kapadia)
Principal Senior Civil Judge
Sabarkantha @ Idar.
Judge Code No.GJ01356