

GJVD040069262021



Filed on 27.12.2021  
Received on 27.12.2021  
Decided on 02.05.2026  
Duration Y M D  
04 04 05

**IN THE COURT OF 2ND ADDITIONAL SENIOR CIVIL JUDGE,  
PADRA.**

**Regular Civil**

**Suit No. : 128/2021**

**Exh. No.35**

**Mr. Sanjiv Kumar,**  
Authorized Signatory,  
**Union Bank of India,**  
Padra Branch, Dist.Vadodara,  
Ta.Padra, Dist.Vadodara.

**.....Plaintiff**

**Versus**

**1. Vasava Bhikhabhai Laxmanbhai,**  
**2. Vasava Ganiben Bhikhabhai,**  
**3. Parmar Jasubhai Girdharbhai (Jamindar)**  
R/o. Hadod, Vasava Ghanchi Faliyu,  
Ta.Karjan, Dist.Vadodara.

**....Defendants**

**Suit for Recovering of Rs.12,00,812.53/-**

-----  
Mr. M. C. Parekh, Learned Advocate for the plaintiff.

Mr. S. M. Soni, Learned Advocate for the defendant Nos.1 and 2.  
-----

**Judgment**  
(Delivered on Dt.02-05-2026)

- [1] The present suit has been instituted by the plaintiff-bank against the defendants for recovery of an amount of **Rs.12,00,812.53/-** (Rupees Twelve lakhs Eight Hundred Twelve and Fifty-Three Paise Only) under Order 37 of Civil Procedure Code as summary suit.
- [2] The facts in brief of this case is that; on 24.10.2016, defendants had applied for Agricultural Crop-Load for the total sum of Rs.12,40,000/-. The plaintiff-bank agreed to grant the loan of Rs.12,40,000/- at the rate of 11% per annum vide Loan Account No.CCCK/01/160106(New No.560381002480208). Against the said Agricultural Crop-Loan, defendants had hypothicated security of land bearing Revenue Block No.127, 175, 268 and 304, Khata No.258 situated at Village-Kotna, Ta.Padra, Dist.Vadodara. The said hypothication was executed on 21.10.2016 before the Sub-Registrar, Padra. Moreover, on 24.10.2016, defendants had completed all the other paperworks and hypothications. As of 18.09.2021, total Rs.12,00,812.53/- are remaining amount. Plaintiff-bank has made several attempts for the recovery of amount by way of sending notices and reminders the defendants for settlements. It was agreed through the agreement that the defendants will have to repay as per monthly installment for crop loan facility at such other rate or rates as may be notified by the plaintiff to the defendants from time to time, on defendants executing the documents and creating the securities as set out.
- [2.1] Further, the defendants failed to adhere to the financial discipline of repayment of the loan either towards principal,

interest or charges thereon and neglected to regularize the said accounts. Further, the plaintiff bank has given notice and called upon the defendants to pay to the plaintiff a sum of Rs.12,00,812.53/- inclusive of interest **till 18.09.2021** and other charges, cost thereto and interest of outstanding dues being the amount due and payable to the plaintiff under the said Loan together with interest and other dues as therein. However, the defendants failed and neglected to pay the amount and interest due thereon and other dues as demanded or any part thereof. Therefore, the plaintiff has filed this suit for the recovery of outstanding dues from the defendants. At present, there is now due and payable to the plaintiff by the defendants the aggregate sum of Rs.12,00,812.53/- as on 18.09.2021 from date of suit at **10.85%** p.a. till the date of payment.

- [3] The defendants have been duly served with the summons vide Exh.9, 10 and 11, and thereafter, defendant Nos.1 and 2 have appeared before this Court through their Ld. Advocate. Vakilatnama is produced at Exh.12.
- [4] The plaintiff-bank has produced following oral and documentary evidences in support of their case;

**Oral Evidence :**

Sr.No.	Exhibit	Particular
1	Exh.16	Affidavit of examination-in-chief of <b>Mr. Parmeshwar Ankush gavai</b> , Manager, Union Bank of India, Padra Branch, Dist.Vadodara.

**Documentary Evidences :-**

Sr.No.	Exhibit	Particular
1.	19	Request for simple charge dtd.21.10.2016
2.	20	Abstract of Village Form No.8-A for

		Khata No.258
3.	21	Application for Agricultural Term Loan dtd.24.10.2016
4.	22	Credit Sanction Intimation dtd.24.10.2016
5.	23	Letter of Undertaking dtd.24.10.2016
6.	24	Common deed of hypothication for agricultural loan vide
7.	25	Deed of Guarantee
8.	26	Deed of Guarantee Agreement for Agricultural Loans
9.	27	Acknowledgment of Debt
10.	28	Power of Attorney of Sanjivkumar
11.	29	Authority Letter Parmeshwar Ankush Gavai
12.	30	Account Statement of Defendant.

[5] After closure of the evidence, the learned advocate of the plaintiff filed his closing pursis at Exh.30.

[6] The Ld. Advocate for the plaintiff Mr. M.C. Parekh has argued as per his plaint and further, in his argument, he has submitted that the defendants have not challenged any of the evidences produced by the plaintiff. Also defendants have not played any pivotal role to defend themselves. It seems that defendants are not interested in present litigation and because of that, plaintiff is sufferings financial loss. Therefore, in the interest of Justice and in view of the Principles of Natural Justice, an appropriate order is necessary to be passed in favour of the plaintiff and it shall be decreed accordingly.

**Points for Determination :-**

[7] Following issues have been framed at Exh.13 for determination of the present suit :

- (૧) શું વાદી બેન્ક પુરવાર કરે છે કે, આ કામના પ્રતિવાદીને ક્રોપ લોન રૂ.૧૨,૪૦,૦૦૦/- ની તા.૨૪.૧૦.૨૦૧૬ ના રોજ ૧૧.૦૦% વ્યાજ સહિતની ભરપાઈ કરવાની શરતે આપવામાં આવેલ હતી?
- (૨) શું વાદી બેન્ક પુરવાર કરે છે કે, પ્રતિવાદીઓએ વાદી બેન્કને લોન ચાલુ રાખવા બાબતે અને લેણાં બાકી હોવાનો અંગીકાર કરી એકનોલેજમેન્ટ ઓફ ડેટ તા.૧૨.૦૭.૨૦૧૯ ના રોજ કરી આપેલ હતું?
- (૩) શું વાદી બેન્ક પુરવાર કરે છે કે, પ્રતિવાદીઓ પાસેથી લોન પેટે હાલ રૂ.૧૨,૦૦,૮૧૨/- (અંકે રૂપિયા બાર લાખ આઠસો બાર પુરા) વસુલ લેવાના બાકી રહે છે?
- (૪) શું વાદી બેન્ક માંગ્યા મુજબનું વ્યાજ મેળવવા હક્કદાર છે?
- (૫) શું વાદી માંગ્યા મુજબની દાદ મેળવવા હક્કદાર છે?
- (૬) શું હુકમ અને હુકમનામુ ?

[8] My findings for the above issues are as under :

- (1) In affirmative
- (2) In affirmative
- (3) In Negative.
- (4) In Negative.
- (5) In Negative.
- (6) As per final order;

- : R e a s o n s : -

**Discussion of Issue Nos. 1 to 2:-**

As the issue No.1 to 3 are interconnected with each other therefore avoiding repetition of facts and evidence, they are discussed together as under:

[9] It is the say of the plaintiff in the plaint that the defendants has applied for the loan for his agricultural activities, a loan application form has been produced by the plaintiff bank vide Exh.21. The Plaintiff bank is sanctioned the loan of Rs.12,40,000/- to the defendants, a sanction intimation is produced by the plaintiff bank vide Exh.22. Hence, the present defendants has applied for the said loan and the bank has sanctioned the said loan is proved by plaintiff bank by oral as well as documentary evidence.

Further, the defendants had also executed relevant Security documents in favour of the plaintiff Bank. As per the agreement, the defendants were liable to pay this amount in equated monthly installments along with the interest thereon. Further, the defendants has not regularly paid the installment and hence repeated request for the repayment of the amount was made by the plaintiff bank, the defendants failed to pay the installment regularly. Thereafter, the plaintiff-bank has issued legal notice to the defendants, but they have not complied with the same. Therefore, the plaintiff bank has brought the present suit for recovery of Rs.12,00,812.53/- along with an interest.

[9.2] Moreover, in support of his version, the plaintiff bank has submitted documentary evidence as stated above in tabular format vide Exh.19 to Exh.29 and Exh.30. The said documents contains, loan application form, sanction letter, hypothecation letter, legal notice, abstract of account, statement of account etc. respectively. Going through these documents, it appears that all these documents shown in the tabular format are genuine and support the case of the plaintiff. Moreover, the defendants have not challenged any of these documents

submitted before the court. Hence, from the documents and deposition of the plaintiff, it is proved that defendants had obtained crop loan of Rs.12,40,000/- for their agricultural activities.

Further, the defendants were called upon for the payment of the dues amount, but they have not complied and did not pay the amounts. Therefore, the defendants are liable to pay the outstanding amount to the plaintiff bank along with interest.

[10] Though, defendants have appeared before this Court after the service of summons, they have not challenged any of the averments by the plaintiff suit, as well documents produced by the plaintiff bank, nor the defendants have entered into the witness-box against the evidence led by the plaintiff. Therefore, I have no reason to disbelieve the documentary evidence coupled with oral evidence. Hence, as discussed above, the plaintiff has proved the **Issue no.1 and 2 in affirmative.**

[11] Now, so far as the Issue no.3, 4 and 5 is concerned, pursuant to the Indian Evidence Act, the *Onus Probandi* (burden of proof) lies squarely upon the Plaintiff to establish the exactitude of the amount claimed at the time of the filing of the suit. Under the maxim *Affirmanti non neganti incumbit probatio* (the proof lies upon him who affirms, not on him who denies), the Plaintiff was required to produce a certified Statement of Accounts reflecting the claimed sum of Rs. 12,00,812.53/-.

As the plaintiff bank has produce a loan statement of the defendant vide Exh.30, upon a meticulous examination of the siad loan account statement i.e.Exh.30, the Court observes a

fatal discrepancy that the Statement of Account (Exh. 30) only reflects an outstanding balance of **Rs. 8,50,389/-** as of 23.12.2020. Whereas the suit was instituted on 26.07.2023, claiming a much higher sum. Hence, the Plaintiff has failed to produce a supplementary ledger, interest calculation sheet, or any corroborative documentary evidence to bridge the gap between the recorded balance and the claimed amount.

[12] Therefore, when the amount of due as the statement of the defendant not shows the amount as claimed by the plaintiff bank, it can not be consider that, such amount of Rs.12,00,812-53 is due from the defendant. It is the duty cast upon the plaintiff bank, to come before the Court with proper and sufficient documents on which he rely. Therefore, looking to the facts of the suit, chief examination on affidavites as well as documentary evidence, the plaintiff bank is measearably failed to satisfy the Court as how the amount of Rs.12,00,812-53 is due from the defendants. Therefore, considering all the facts, oral as well as documentary evidence, the plaintiff bank is failed to prove the Issue No.3 and accordingly I answer the **Issue No.3 in Negative.**

[13] Now, as the plaintiff bank is failed to prove the Issue No.3, the plaintiff bank is not entiled to any interest or relief as prayed in his plaint. Accordingly, I answer the **Issue No.4 and 5 in negative** and for the Issue No.6, in the interest of Justice, I have pass the following final order:

#### **FINAL ORDER**

- (1) The plaintiff's suit is hereby **rejected** with cost.

- (2) The plaintiff bank shall pay Rs.1000/- Rupees One Thousand Only as to cost payable to Taluka Legal Service Authority, Padra.
- (3) Decree to be drawn accordingly.

Signed and Pronounced in the Open Court on this 2nd May, 2026.

Date : 02-05-2026  
Place : Padra

**(R. V. Limbachiya)**  
2<sup>nd</sup> Additional Senior Civil Judge,  
Ta. Padra. Dist. Vadodara.  
**Judge Code (GJ01153)**