IN THE COURT OF SUBORDINATE COURT, THENI

Present: Tmt. R.Geetha, B.A., B.L.,
Subordinate Judge,
Theni.

Dated this 08th Day of August 2024, Thusday.

Original Suit No. 439 of 2023
(CNR No.TNTH030008472023)

Canara Bank, Theni Branch,
represented by its Branch Manager. ... Plaintiff.

/Vs/

1. G.Kanchivanam
2. M.Ganesan ... Defendants.

The suit came up before me on 06.08.2024 for final hearing, in the presence of Thiru.M.Muruga dhinakaran M.B.A., B.L., Advocate for the Plaintiff and the 1st and 2nd Defendants called absent. No representation, set exparte and upon hearing of argument of plaintiff and perusing records, having stood over till this day for consideration of this court today this court delivered the following:-

JUDGMENT

1) This suit is being filed by the Plaintiff Bank for the recovery of sum of Rs.2,69,802/- from the Defendants with subsequent Interest at the rate of 9.50% per annum with compounded with quarterly rests from the date of plaint till the date of realization of the amount along with costs of this suit.

02) The Sum and substance of plaint averments:-

The Plaintiff Bank had been approached by the Defendants for an Educational Term Loan upto a limit of Rs.60,000/- on 07.08.2018. After appraised on the request of the defendants, the plaintiff bank was pleased to grant of a sum of Rs.60,000/- bearing Loan A/c. No.1020651034268, on 09.08.2018 to the defendants, the said loan was sanctioned by the plaintiff on condition of execution of necessary instruments as securities. And the defendants executed a Memorandum of Agreement and other related documents in favour of the plaintiff bank at Theni Branch, on 09.08.2018. As per the Loan Agreement, the defendants had agreed to repay the loan with the interest at the rat of 10.60% per annum. And the defendants had agreed to repay the loan within 120 months from the date of sanction. Further the defendants agreed to repay the loan amount with 2% penal interest over and above agreed rate of interest, when there is default. After executing the necessary documents the defendants had availed a sum of Rs.60,000/- on 09.08.2018 from the plaintiff bank. The defendants had also agreed to repay the loan amount along with the interest at the rate of 10.45% per annum calculated on daily products at monthly rests. Further the defendants agreed to pay the enhanced interest rate, when the breach of Loan Agreement is done by the defendants continuously for more than 60 days. As the defendants not acted upon the terms of the agreement, the present rate of interest is 9.50% per annum compounded monthly rests As per the Loan Agreements the defendants had also agreed that, if any default in repayment of a single installment, the plaintiff bank is at liberty to demand the defendants to repay the principle amount along with accrued interest, without waiting for the expiry of the installments period. As per the Loan Agreement, the laon is subsisting as the guarantee given by the defendants is continuing one. Therefore both the defendants are liable to repay the loan amount jointly and severally.

Asper the Accounts maintained by the plaintiff bank, the defendant have to pay an outstanding amount of Rs.1,68,430/- to the plaintiff bank, as on 03.05.2023, under Loan A/c. No.1020651034220 and an outstanding amount of Rs.97,131/- to the plaintiff bank, as on 03.05.2023, under loan A/c. No.1020651034268 with further interest. As the defendants committed default in repayment of the loan amount, the plaintiff made repeated demands to the defendants and a demand notice was also sent to the defendants, by the plaintiff bank. Even after the repeated demands and the demand notice, the defendants did not come forward to settle the entire outstanding amount. Further, the defendants have executed a Letter of acknowledgment of debt on 07.08.2018 and 20.04.2021. So, the suit is filed by the plaintiff Bank, for recovery of the loan amount with interest and costs.

03) Though the defendants who have been served with summons and failed to defend the suit and remain set-exparte.

04) In order to prove the case of the plaintiff bank, the plaintiff bank examined its Branch Manager one Jeya Ando Kingston as PW1 and produced Ex.A1 to Ex.12 were marked.

05) Heard the plaintiff side arguments, and perused the material on record.

06) On basis of the perusal of the materials on record on contention taken-up by the plaintiff bank. Following points for consideration is that,

1. whether the plaintiff bank is entitled to recover the suit amount of Rs.2,69,802/- with interest at rate of 9.50% per annum on principal amount as claimed by it?

07) It is the specific case of the Plaintiff Bank that the defendants applied for the educational loan of Rs.1,03,400/-for the studies of the 1st defendant for the course of three years in DPMT in Advanced Tooling & Plastic Products Development Centre at Madurai. through application dated 16.03.2017 and after execution of the necessary loan document. The plaintiff bank sanction loan Rs.1,03,400/- to the defendant through sanction letter dated 16.03.2017 and the loan amount Rs.1,03,400/- was credited in to loan account bearing account No.1020651033220 in the name of the 1st defendant maintain by the plaintiff bank, and the defendants agreed to repay the loan into 180 monthly installment at the rate of interest 10.45 % per annum. Commencing from one year after the completion of the course or after 6 month of getting job whichever is earlier. The plaintiff bank further contented that defendant once again the defendant approached the plaintiff bank for educational loan of Rs.60,000/- for higher studies of the 1st defendant through application dated 09.08.2018 and after the execution of the necessary loan amount the plaintiff bank grant loan Rs.60,000/- to the defendant through sanction letter dated 09.08.2018. The loan amount Rs.60,000/- was credited into the loan a/c No.1023651034268 stood in the name of the 1st defendant maintain by the plaintiff bank. The defendant agreed to repay the amount Rs.60,000/- at the rate of interest 10.60% per annum into 120 EMI commencing from after the 1 year course completed or after 6 month of getting job whichever is earlier. The plaintiff further contention is that after the demand notice issue to the defendants the defendant committed default in repayment of loan and as on 03.05.2023 a sum of Rs.1,68,430/- due on the loan account No.1020651034220 and a sum of Rs.97,131/- was due on the loan account No.1020651034268. Inspite of the repeated demands made by the plaintiff bank officials, the defendants did not come forward to regularize the loan amount. The defendant executed letter of acknowledgement on 07.08.2018 and 20.04.2021. The plaintiff instituted this suit as per the statement of accounts maintain by the plaintiff bank. The defendants are liable to pay sum of Rs.2,69,802/- due to the plaintiff bank. Hence this suit.

08) In order to substantiate plaintiff case the plaintiff bank examined its plaintiff manager Jeya Anto Kingston as PW1 and filed proof affidavit in-lieu of oral examination in chief the PW1 in his evidence reiterated the plaint averments.

09) To corroborate the evidence of PW1 the plaintiff bank relied Ex.A1 loan application dated 16.03.2017 for Rs.1,03,400/-, Ex.A6 loan application dated 07.08.2018 for Rs.60,000/-, Ex.A2, Ex.A7 - Sanction letter dated 16.03.2017 and 9.08.2018, Ex.A3, Ex.A8 educational loan agreement dated 16.03.2017 and 07.08.2018. From above documents it has been revealed that defendant applied two educational loan for Rs.1,03.400 and for Rs.60,000/- from the plaintiff bank. The plaintiff bank also sanction the two loan amount.

10) It is revealed from Ex.A5 the loan account No. 1020651034220 and Ex.A10 statement of loan account No.1020651034268, stood in the name of the 1st defendant a sum of Rs.51,700/- was debited on 16.03.2017 and sum of Rs.51,700/- was debited on 31.03.2017 in account No.1020651034220 and a sum of Rs.20,000/- on 09.08.2018, Rs.6,700/- on 28.08.2018, Rs.21,600/- on 14.02.2019, Rs.12,100/- on 06.08.2019 in the loan amount account No.1020651034268 and it also revealed a sum of Rs.1,71,035/- due as on 02.07.2023 in the loan account No.1020651034220 and a sum of Rs.98,767/- due as on 02.07.2023 in the loan account No.1020651034268. To deny or to discard nothing is available on record.

11) On careful perusal of the entire evidence on record it is clear that the defendant has borrowed two educational loan for Rs.1,03,400/- on 16.03.2017 and for Rs.60,000/- on 09.08.2018 and defendant agreed repay the same into 180 EMI and 120 EMI respectively. But the defendant failed to repay the loan as agreed by them. The defendant remain exparte and the claim of plaintiff remain unshuttered. The defendant were not appeared and could not contest the claim of the plaintiff. Therefore from the undisputed and unchallenged oral and the documentary evidence on the side of the plaintiff this court comes to the conclusion that the plaintiff has established the liability of the defendants therefore based on the oral evidence of

PW1 coupled with contents of Ex.A1 to Ex.A12 this court held that the defendants are liable to pay a sum of Rs.1,71,035/- as a loan account No.1020651034220 as on 02.07.2023 and a sum of Rs.98,767/- as a loan account No.1020651034268.

12) The date of loan is 16.03.2017 and 09.08.2018 but Ex.A11 - AOD dated 07.08.2018 and AOD dated 20.04.2021 saved the period of limitation. As per section 34 of CPC pendetelite and after suit interest is with in the discretion of the court.

13) From the above consideration this court comes to the conclusion that the plaintiff bank entitled to recover a sum of Rs.2,69,802/- from the defendant along with interest at the rate of 6% from the date of the plaint till the date of realization and with cost. Accordingly this court answering Point No.1

In the result, the suit is decreed with cost. That directing the defendants to pay a sum of Rs.2,69,802/- to the plaintiff bank along with interest at the rate of 6 % per annum on principal amount of Rs.1,03,400/- and Rs. 60,000/-from the date of the plaint till the date of realization of suit amount.

Dictated to the steno typist and typed by her in computer, corrected and pronounced by me in the open court, this is the 08th day of August, 2024.

/Sd/. R.Geetha,
Subordinate Judge,
Theni.

<u>List of Plaintiff side Witness</u>:
PW1 - Jeya Ando Kingston - Branch Manager

***List of Plaintiff side Exhibits*:**

Ex.A1 – 16.03.2017 - Loan application - Original
Ex.A2 – 16.03.2017 - Sanction letter made by the plaintiff bank - Original
Ex.A3 – 16.03.2017 - Educational Loan agreement - Original
Ex.A4 – 07.03.2017 - Bonafide Certificate - Original
Ex.A5 – 08.05.2023 - Statements of accounts - Original
Ex.A6 – 07.08.2018 - Application form submitted by the defendants to plaintiff bank - Original
Ex.A7 –09.08.2018 - Sanction letter issued by the plaintiff bank to the defendants - - Original.
Ex.A8 – 09.08.2018 - Educational Loan Agreement executed by defendants in favour of plaintiff bank - Original.
Ex.A9 – 01.08.2018 - Bonafide Certificate - Original.
Ex.A10 – 08.05.2023 - Statements of accounts - Original
Ex.A11 – 07.08.2018 - Letter of Acknowledgment of debts executed by the defendants - Original
Ex.A12– 20.04.2021 - Letter of Acknowledgment of debts executed by the defendants - Original

Defendants side Witnesses and Exhibits:

-Nil-

/Sd/. R.Geetha,
Subordinate Judge,
Theni.

/True copy/

SUB COURT, THENI
O.S.No.439/2023
JUDGMENT
DATED:08.08.2024