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**IN THE COURT OF LXXXIV ADDL. CITY CIVIL &  
SESSIONS JUDGE, AT BENGALURU (CCH-85)  
(Commercial Court)**

**THIS THE 2<sup>nd</sup> DAY OF AUGUST 2025**

**PRESENT:**

**SRI. ANAND T. CHAVAN. B.Com.,LL.B.(Spl.)  
LXXXIV ADDL. CITY CIVIL & SESSIONS JUDGE,  
BENGALURU.**

**Com.OS.No.504/2023**

**Plaintiff:-**      **Food Karnataka Limited,**  
A Company Incorporated under the  
Companies Act, 1956, having its  
Registered Office at No.17, General  
K.S Thimmayya Road, (Richmond  
Road), Bengaluru-560 025.  
Rep by its Managing Director,  
Mr. K. Mohammed Irfan.

**(Rep by Sri. Kiran V Ron -Adv)**

*V/s*

**Defendants:-** 1. **M/s Akshay Food Park Ltd.,**

A Company incorporated under the Companies Act, 1956, having its Registered Office at No.1091, First Floor, Sampanappa Trust, OTC Road, Bengaluru-560 002.

& Also at: No.58/59, Karishma Farms, Gubbalala, Subramanya Post, Kanakapura Road, Bengaluru-560 061.

**AND OTHERS.**

**(Rep by PNR -Adv)**

**PARTIES TO IA.NO.V**

**Applicant/  
Plaintiff:**

Food Karnataka Limited

**V/s**

**Respondents/  
Defendants:**

M/s Akshay Food Park Ltd., & Ors.,

(i)	Provisions under which the application is filed	U/Or.XIII-A R/w Sec.151 of CPC
(ii)	Relief sought for	Praying to pass a summary judgment without recording evidence in the above suit
(iii)	The date on which the application is filed	25.04.2024

(iv)	Number of the application	1
(v)	The date on which the objection is filed by opponents	By Defendants on 14.06.2024 & Addl.objections on 22.08.2024
(vi)	The date on which the orders were passed on the said application	02.08.2025

### **ORDER ON IA No.V**

The plaintiff has filed present application U/Or.XIII-A R/w Sec.151 of CPC seeking to pass Summary Judgment on it's claim made in the plaint, without recording evidence in the above suit.

**2.** It is averred in the affidavit of Managing Director of plaintiff company which is filed in support of the application that, plaintiff has filed present suit against defendants for recovery of Rs.6,48,50,000/- together with interest at the rate of 12% pa., and costs. The plaintiff has sought for recovery of sums advanced as a loan under loan agreement dtd.23.05.2007 and plaintiff has also invoked the deed of guarantee dtd.23.05.2007 executed by defendant Nos.2 to 4 in favour of plaintiff. Further

plaintiff has stated in para No.10 of plaint that, as per Clause 2.3 of loan agreement, defendants had to repay the loan in 40 quarterly equivalent terms with moratorium of 10 years from the date of disbursement of first installments. Since defendants failed to repay the loan as per loan agreement, plaintiff is constrained to file this suit. Further defendant Nos.1 and 2 have filed their common written statement on 12.01.2024 and admitted the receipt of loan and fact that the loan has not been repaid. In para No.7 of the plaint, plaintiff has pleaded about execution of loan agreement and same is admitted by defendants in para No.16 of written statement as "it is a matter of record and does not call for any remarks". Further in para No.8 to 12 of the plaint, plaintiff has pleaded regarding manner of disbursement of loan and failure of defendants to repay it. On perusal of written statements of defendants, it shows that, defendants have not even traversed the pleading of plaintiff in respect of para No.8 to 12 of the plaint. Further it is settled law that, written statement has to be specific

and in the absence of which, plaint averments will be deemed to be admitted. Since defendants have not denied averments of para No.8 to 12 of the plaint, it can be treated as admitted and same need not be proved. Further defendants have taken specific defence that, defendant No.1 was put into an inevitable situation to accept interest free unsecured loan with repayment period from 20 years to 10 years plus interest on default and intention of first defendant was to proceed with development of food park for which he agreed to avail said unsecured loan. It is further contended by defendants that, they were not made known about General Financial Rules (GFR) and they were misled by officials of plaintiffs, State Government and Central Government. It is further their defence that reason for non-payment of loan amount is that plaintiff had assured to get aforesaid interest free loan converted back to state grant as GFR would be eased next financial year, same was not done and if plaintiff had stood by words to convert it as state grant, there would have been no question of repayment of loan amount.

Hence defendants clearly admit that they have availed loan and their only defence is that, they were coerced/forced to accept the loan. Further in a commercial transaction between two corporate entities, there can be no coercion and hence defence taken by defendants is frivolous and meant for dragging the present proceedings. Further defendants have cited various reasons for non-payment of loan and reasons for such non-payment would not be a matter of trial in present case. Now defendants are resisting the repayment of loan on the ground that, plaintiff should convert it into a grant and such defence is immaterial and it would tantamounts to unilateral modification of concluded contract, which is impermissible under law. Further in their statement of admissions and denials dtd.15.04.2024 defendants have admitted letters dtd.16.03.2007 and 17.03.2007. Further they have also admitted agreement and deed of guarantee, but correctness and custody of said documents are denied. Hence in the light of above defence of defendants, it shows that, defendants have no real

prospect of successfully defending the case and there is no compelling reason for the case requiring oral evidence. Hence there is no gain in full fledged trial, when defendants have no prospect of succeeding in the suit and in view of categorical admissions made by the defendants in their written statement, no issues survive for consideration of present suit. Further plaintiff is government entity and sums lent to defendants is public money. Hence plaintiff will be put to irreparable loss and injury, if application is not allowed. On the other hand, no prejudice will be caused to defendants, since they have admitted the receipt of loan. These amongst other grounds, it is prayed to allow the application.

**3.** The defendants have filed their common objections to above application, wherein it is averred that, the application is not maintainable either in law or on facts and same deserves to be dismissed in limine. It is further averred that, the grounds mentioned in the application are unclear and no sufficient reasons are made out to allow the same. Further the contention of plaintiff that, defendants

have admitted the loan, execution of loan agreement and their failure to repay the loan amount is not disputed, but request of plaintiff to consider the above matter for summary judgment is said to be frivolous and vexatious. Further in order to proceed with summary judgment, there must either be no real prospect of succeeding on the claim by plaintiff or defendants has no real prospect of successfully defending the claim. Defendants have detailed out their defence in their written statement by relying upon documentary evidence. It is further averred that whole claim of the plaintiff is disputed and correctness loan agreement and guarantors agreement is denied in statement of admission and denials for the reason that plaintiff forced defendants in to loan agreement by misleading them saying that General Financial Restrictions (GFR) required to be recasted and since the above agreements are executed on wrong premise, liability under said documents are not admitted. Further there was no change in GFR restrictions, plaintiff and Central Government failed to interpret GFR wrongs and they

wrongly interpreted it without conducting enquiry that project cannot get grant from multiple sources and thereby converted such grants to interest free unsecured loan. Hence it is very much crucial for the matter to go through the trial to decide upon disputed propositions and issue must be framed in this regard. For the said reasons, it is necessary to record the evidence in the matter. It is further averred that plaintiff has not uttered a single word regarding allegations of misleading defendants pertaining to GFR restrictions, though plaintiff has admitted GFR rules to be government documents in statement of admissions and denials. Hence onus lies on defendants to prove the same which requires trial.

**4.** The defendants have filed their additional objections to present application, wherein it is averred that, prayer to pass summary judgment on claim of plaintiff without recording evidence is not maintainable. Further defendant No.1 was provided for financial assistance from Ministry of Food Processing Industries, GOI and GOK by way of grants

and from the time when its proposal was accepted as successful bidder, defendant No.1 is addressing plaintiff to provide with financial assistance as per scheme and JV Agreement dtd.30.08.2004. But till today plaintiff has not contributed its share in equity of first defendant's JV Company as per Clause No.3.1 of JV Agreement. Later plaintiff intimated about state grant being converted into interest free unsecured loan only for defendant No.1 company, but plaintiff made condition precedent that only if defendant No.1 accepts interest free unsecured loan, instead of state grant, it will get in principle approval from MOFPI. For said reason defendant No.1 was put into inevitable situation to accept the said loan, but there was no changes in GFR restrictions. Further due to delay tactics of plaintiff, there was whole change in procedure pertaining to issuance of State contribution as a grant in aid to defendant No.1, while plaintiff got in principle approval for Malur, Jewargi and Bagalkot Food Parks way back in the year 2000-2003 and then state contribution as grant in aid was released. But only to defendant No.1, the state

grant was given as interest free unsecured loan. Defendant No.1 continuously addressed letters seeking conversion of interest free loan into state grant, but request was rejected even when National Mission for Food Processing rules were eased in 2012, 2017 etc., Hence plaintiff failed to stand by its words. It is further averred that, as per plaint, cause of action arose on 31.12.2017, when first installment was due and payable as per article 2.3 and article IX of loan agreement and payable when plaintiff sent notice on 04.10.2019. Hence the three years limitation would end on 03.10.2022. But present case is filed on 13.04.2023. Hence there is delay of 6 months 10 days in filing present suit and same is time barred. It is further averred that cause of action also arose on 26.02.2020 and 22.04.2020, when defendant No.1 sent letters to plaintiff by admitting liability under loan agreement dtd.23.05.2007 and requesting for setting of said loan amount. But plaintiff interpreted said letters in wrong sense as such letters do not amount to admission of liability under loan agreement dtd.23.05.2007. Defendant

No.1 is asking for waive off the loan for above reasons and as such the above letter cannot be treated as admission of liabilities and much less letters cannot be covered under Sec.18 of Limitation Act to considered that, cause of action arose on 26.02.2020 and 22.04.2020. It is further averred that defendants have detailed out their defence clearly in their written statement and relied upon various documentary evidence in support of their case. Hence no grounds are made out by plaintiffs to proceed the case for summary judgment by dispensing recording of evidence. These amongst other grounds, it is prayed to dismiss the application.

5. The following points arise for consideration:

***1. Whether plaintiff has made out grounds to pass a summary judgment in present suit by dispensing recording of evidence, as prayed for in the application?***

***2. What order or decree?***

6. Heard arguments of both sides, perused records.

7. The followings are answers to above:

**Point No.1:-In the Negative.**

**Point No.2:- As per the final Order  
for the following;**

**REASONS**

8. **POINT No.1:-** Plaintiff has filed present suit against defendants for recovery of Rs.6,48,50,000/- together with interest at the rate of 12% pa., and costs. The plaintiff has sought for recovery of sums advanced as a loan under loan agreement dtd.23.05.2007 and plaintiff has also invoked the deed of guarantee dtd.23.05.2007 executed by defendant Nos.2 to 4 in favour of plaintiff. Further plaintiff has stated in para No.10 of plaint that, as per Clause 2.3 of loan agreement, defendants had to repay the loan in 40 quarterly equivalent terms with moratorium of 10 years from the date of disbursement of first installments. It is further contented that defendants in their common written statement have admitted the receipt of loan and fact that the loan has not been repaid. Hence in the light of above defence of defendants, it shows that, defendants have no real prospect of successfully

defending the case and there is no compelling reason for the case requiring oral evidence. It is further asserted by plaintiff that in view of categorical admissions made by the defendants in their written statement, no issues survive for consideration of present suit and hence it is prayed to pass summary judgment by dispensing recording of evidence.

9. Learned counsel for plaintiff has relied upon various case laws and among said caselaw, the following case law, which is directly on the point of summary judgment is culled out as under:-

**(2019) SCC Online Delhi 7761- Venezia Mobil (India) Pvt. Ltd., V/s Ramprashtha Promoters & Developers Pvt Ltd.,**

**"33. Rule 3 of Order XIII-A empowers the Court to give a summary judgment against a defendant on a claim if it considers that it has no real prospect of succeeding or successfully defending the claim, and there is no other compelling reason why the claim should not be disposed of before recording of oral evidence."**

**36. Consequently, broadly speaking, the basis for seeking summary judgment as well as judgment on admission is the same i.e. that there is no triable issue which arises for consideration, there are reasons for allowing the claim without oral evidence and the defence raised by the defendants**

**is a moonshine and a sham.** THERE IS BREACH ON THE PART OF THE DEFENDANTS AND THERE IS NO FAULT ON THE PART OF THE PLAINTIFF ADMITTEDLY.”

**10.** No doubt, as per ratio laid down in above case, Rule 3 of Order XIII-A empowers the Court to give a summary judgment against a defendant on a claim if it considers that it has no real prospect of succeeding or successfully defending the claim. However in this case defendants have taken specific defence that, defendant No.1 was put into an inevitable situation to accept interest free unsecured loan with repayment period from 20 years to 10 years plus interest on default and defendants were not made known about General Financial Rules (GFR) and they were misled by officials of plaintiffs, State Government and Central Government. Further defendants have also seriously contended that non-payment of loan amount was due to assurance of plaintiffs to get aforesaid interest free loan converted back to state grant after easing of General Financial Rules during next financial year, same was not done as assured by plaintiff. Defendants have further specifically

contended that defendant No.1 was provided for financial assistance from Ministry of Food Processing Industries, GOI and GOK by way of grants and from the time when its proposal was accepted as successful bidder, defendant No.1 is addressing plaintiff to provide with financial assistance as per scheme and JV Agreement dtd.30.08.2004. But till today plaintiff has not contributed its share in equity of first defendant's JV Company as per Clause No.3.1 of JV Agreement. It is further alleged that plaintiff imposed condition that only if defendant No.1 accepts interest free unsecured loan, instead of state grant, it will get in principle approval from MOFPI, for which defendant No.1 was put into inevitable situation to accept the said loan. Apart from various defences raised in its reply, defendants have contended that the three years limitation to file present suit would end on 03.10.2022, but present case is filed on 13.04.2023. Hence there is delay of 6 months 10 days in filing present suit and same is time barred. It is further contended that plaintiffs cannot mis-interpret letters dated 26.02.2020 and

22.04.2020 as admission of liability under loan agreement dtd.23.05.2007 and said letters cannot be covered under Sec.18 of Limitation Act to consider that cause of action arose on 26.02.2020 and 22.04.2020.

**11.** Hence as rightly contended by defendant's side, in order to proceed with summary judgment, their must either be no real prospect of succeeding on the claim made by plaintiff or defendants shall have no real prospect of successfully defending the claim. Defendants have detailed out serious defences in their written statement by relying upon several documents and same are to be adjudicated during trial of the suit. Further looking to grounds urged by defendant's side, mere admission of aforesaid unsecured loan and non repayment of such loan, cannot be sole criteria for passing judgment under summery procedure, without considering other surrounding circumstances and technical issues like limitation. Hence in present facts and circumstances of the case, it is very much necessary to decide upon disputed propositions by conducting trial. Hence in

the interest of effective adjudication of the matter, it appears necessary to fame issued and to record evidence in the matter. Hence absolutely there are no grounds to proceed the case for summary judgment by dispensing recording of evidence. Further if procedure of summary judgment is adopted, defendants will be put to irreparable loss and injury, as they will be deprived of proving their defence on merits. For these reasons, the application filed by plaintiff deserves to be rejected. Accordingly **Point No.1 is answered in the negative.**

**12. Point No.2:-** For the reasons stated and findings given on Point No.1, the following is:-

**ORDER**

***IA No.5 filed by plaintiff Under Order XIII-A R/w Sec.151 of CPC, is hereby rejected.***

***No order as to costs.***

[Dictated to the Stenographer Grade-III, directly on the computer, typed by her, then corrected and signed by me and pronounced in the Open Court, dated **this the 2<sup>nd</sup> day of August 2025**]

**(ANAND T. CHAVAN)**

LXXXIV Addl.City Civil & Sessions Judge,  
Bengaluru.