IN THE COURT OF THE PRL.CIVIL JUDGE & JMFC.,
AT CHANNAPATNA

Present: Sri. S. NATARAJ. MBA,LL.B.,
Prl. Civil Judge & JMFC, CHANNAPATNA.

Dated this the 9th day of July 2019.

O.S.No.113/2018

PLAINTIFF: **KARNATAKA BANK LTD.,**

A body Kartnataka Bank Ltd., constituted under the Banking Companies (Acquisition and transfer of Undertakings) Act 1913, carrying the banking business having its Head Office at Mahaveer Circle, P.B. No. 599, Kankanady, Mangalore-575 022 and several branches throughout India and one amongst them at Channapatna Taluk, Ramanagara District represented by its Branch Managaer and Principal Officer Manjunatha.T.K, 43 years, S/o Shri T. Kalegowda R/at Channapatna.

(By Sri. Narayana Gowda Advocate)

Vs.

DEFENDANT : 1. Sri. Shivalingaiah.S.C
S/o Chikka Thammegowda
Aged about 47 years,
R/a: Singarajipura Village & Post,
Channapatana Taluk,
Ramanagara District.

2. Sri. Ramakrishna.M
S/o Manchegowda
Aged about 47 years,
R/a: Huchayyanadoddi Village,
Kodamballi Post,

Channapatna Taluk,
Ramanagara District.

(Exparte)

Date of Institution of the suit	:	28.04.2018
Nature of the suit (Suit on pronote, Suit for declaration and possession, Suit for Injunction etc)	:	Money Suit
Date on which the Judgment was Pronounced		09.07.2019
Date of the commencement of recording of the evidence	:	05.07.2019

		Year	Months	Days
Total Duration	:	-01-	-02-	-11-

(S. Nataraj)
Prl. Civil Judge & JMFC,
Channapatana.

J U D G M E N T

Plaintiff Bank has filed this suit for recovery of sum of Rs.1,35,112/- together with future interest at the rate of 13.75% from the date of suit from the defendant.

2. Brief facts of the plaintiff's case are that:

The plaintiff Bank is constituted under the Karnataka Bank Ltd., Act, 1959 to carry business activities. The defendant No.1 had applied to the plaintiff bank for business loan of Rs.2,40,000/- . The loan was sanctioned and the defendant No.1 was called upon to execute necessary loan papers. The defendant No.1 has accepted the terms and conditions for the sanction. It is further contended that on 18/12/2012 the defendant No.1 has executed Deed of Mortgage in respect of suit schedule property, memorandum of deposit of title deeds, and composite term loan agreement for small business for sum of Rs.2,40,000/- in favor of plaintiff bank and agreed to repay the said loan amount with interest at 10.75% per annum compounded quarterly rest for the value received. It is further contended that the defendant No.2 stood as guarantor from the said loan facility availed by the defendant No.1 and has executed consent letter dated: 18.12.2012 and other relevant documents in favor of the plaintiff bank.

3. It is further contended that the defendant No.1 has availed full facility under the said loan, the present loan liability is amended to Rs.1,35,112 (Rupees one lakh thirty five thousand one hundred and twelve only). It is further contended that the defendants presently are liable to pay interest at 13.75% per annum compounded monthly rests. The defendants have acknowledged the loan liability by executing confirmation letter dated 18/12/2012 in favor of the plaintiff bank. It is further contended that the defendants have failed to pay the loan amount as undertaken by them inspite of repeated

demands. So they have come up with the present suit and accordingly pray for to decree the suit.

4. The suit summons was served on the defendants. Inspite of the same they remained absent before the Court. As such, they were placed exparte.

5. On the basis of the plaint averments, the Points that would arise for my determination are as under:

1) Whether the plaintiff Bank is entitled for the suit claim along with the interest, as sought for in the plaint?

2) To what Order?

6. In support of the plaintiff's case, got examined PW1 and got marked the documents at Exs.P1 to P8.

7. I have heard the arguments by the plaintiff's advocate and perused the documents.

8. My findings on the above Points are held as follows:

Point No.1) Partly affirmative

Point No.2) As per final orders, for the following:

REASONS

Point No.1:-

9. The plaintiff bank in order to establish their case, the manager of the plaintiff bank examined himself as PW1 and filed his affidavit by way of examination-in-chief wherein he reiterated all the averments made in

the plaint and in support of their case, he got marked 13 documents from Ex.P1 to Ex.P8. So in view of his oral and documentary evidence, he prays for to decree the suit.

10. The learned counsel for the plaintiff on the basis of the oral and documentary evidence adduced and produced before the court he urged to decree the suit.

11. Upon perusal of Ex.P1, i.e., loan sanction letter, it shows that in pursuance of loan application submitted by the defendant No.1, the plaintiff bank sanctioned loan of Rs.2,40,000/-. Upon perusal of Ex.P2 i.e., term loan agreement, it shows that the defendant No.1 has agreed to pay interest at 10.75. % per annum compounded quarterly rest with interest. Upon perusal of Ex.P4 i.e., consent letter dated 18.12.2012, it shows that the defendant No.2 has agreed to act as guarantor for the loan borrowed by the defendant No.1. Upon perusal of Ex.P5 and Ex.P6 i.e., Deed of Mortgage and memorandum of deposit of title deeds, it shows that the defendant No.1 has executed a simple Mortgage deed in respect of suit schedule property in favor of the plaintiff bank by depositing the title deeds. Upon perusal of Ex.P7 i.e., confirmation letter, it shows that the defendants have acknowledged debt obtained by them from the plaintiff bank. It is the contention of the plaintiff bank that though the defendant No.1 has availed full facility under the above said loan, but he has failed to pay the loan amount as agreed by him, as such, the

defendants are presently liable to pay interest at 13.75% per annum compounded quarterly rest. So also the loan statement produced by the plaintiff bank at Ex.P8 it shows that the defendants are liable to pay total amount of Rs.1,35,112/-.Upon perusal of the oral and documentary evidence adduced and produced by the plaintiff bank it clearly goes to show that the defendant No.1 has obtained loan from the plaintiff bank and after obtaining the loan he has failed to comply with the terms and conditions mentioned in Ex.P2 loan Agreement.

12. As it is already stated above, in this case at the earliest point of time, the suit summons sent by this court was served upon the defendants inspite of that they have not appeared before the court. The above oral and documentary evidence adduced and produced by the plaintiff bank remains unchallenged and absolutely there is no contra evidence to disbelieve the case of the plaintiff bank. When such would be the case, this court has left with no option except to hold that the plaintiff bank is entitled for the relief as claimed in the present suit.

13. The plaintiff Bank has claimed future interest at the rate of 13.75% per annum. But said rate of interest is exorbitant one. So, I feel it just and proper to award the interest at the rate of 6% per annum from the date of suit will its realization. So, I answer point No.1 partly in the affirmative.

Point No.2:

14. In the result, I proceed to pass the following :

ORDER

The suit of plaintiff Bank is hereby partly decreed with costs.

The defendants are hereby directed to pay total sum of Rs.1,35,112/- (Rupees one Lakhs Thirty five Thousand One Hundred and Twelve only) to the plaintiff along with interest at 6% per annum from the date of suit till realization within two months from the date of this order and in default of defendants thereof, the plaintiff is entitled to apply for a final decree for the sale of mortgaged suit schedule property or its sufficient part thereof.

Draw decree accordingly.

(Dictated on line computer to the stenographer, computerized by her, corrected, then signed by me and pronounced in the open court on this the 9th day of July 2019)

(S. Nataraj)
Prl. Civil Judge & JMFC,
Channapatna.

ANNEXURE

List of witnesses examined in favor of plaintiff:

PW 1 : Manjunatha.K

List of documents marked in favor of plaintiff:

Ex.P.1	:	Credit Sanction Order
Ex.P.2	:	Term Loan Agreement
Ex.P.3	:	Consent Letter
Ex.P.4	:	Consent Letter
Ex.P.5	:	Declaration
Ex.P.6	:	Memorandum of Deposit of Title deed
Ex.P.7	:	Letter of confirm
Ex.P.8	:	Statement of account

List of witnesses examined for defendants

- Nil –

List of exhibits marked on behalf of defendants

-Nil –

Sd/-
(S. Nataraj)
Prl. Civil Judge & JMFC,
at Channapatana.