

KABK600004372024



Presented on : 26-07-2024
Registered on : 26-07-2024
Decided on : 13-03-2026
Duration : 1 years, 7 months, 18 days

IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC, BANAHATTI.

**Present: Sri. ASHAPPA, B.Com., L.L.M.,
Senior Civil Judge & JMFC.,
Banahatti.**

OS. No.192/2024

DATED THIS THE 13^h DAY OF MARCH -2026

Plaintiff :

1. The Karnataka Bank Ltd.,
A Banking company registered under the
companies Act 1913 having its registered office
at Mahaveer Circle, Mangaluru-2 and a branch
office among other at Mahalingapur, Tq: Rabkavi-
Banhatti by its branch Manager, Deepak K.D.
S/o: K.T. Devappa, Age: 41 years, Occ: Manager,
R/o: Mahalingapur, Tq: Rabkavi-Banhatti.

(By Sri. M.S.M. Adv)

-V/s-

Defendants:

1. Smt. Kashawwa W/o: Tammanna Horatti,

Age: 50 years, Occ: Agriculture & Household,
R/o: Awaradi, Tq: Mudalagi.

2. Shrishail S/o: Basappa Ullagaddi,
Age: 75 years, Occ: Agriculture,
R/o: Mahalingapur, Tq: Rabkavi-Banhatti.

(By **Sri. A.J.V. Adv** for D.1 and
Sri. S.C.U. Adv for D.2)

Nature of the suit : Recovery of money.

J U D G M E N T

The plaintiff bank is filed present suit for recovery of money of Rs.14,06,538.62/- paise with future interest @ 10.75% per annum and penal interest @ 5% per annum from the date of suit till its realization of the claim.

2. Brief facts of case of the plaintiff bank are as under;

a). It is stated that, the plaintiff bank is doing banking business in the name of Karnataka Bank Ltd., having its one of the branch at Mahalingapur, Tq: Rabkavi-Banhatti.

b). It is stated that, the defendant No.1 has applied for crop loan, to raise sugarcane in the land Sy.No.105/1 measuring 04 acres 02 gunats and land Sy.No.105/2 measuring 04 acres 03 guntas both situated at

Awaradi village. The plaintiff bank sanctioned the loan of Rs.5,85,000/- on 22.08.2013 to the defendant No.1 and drawing power of the borrower amount is fixed for the 1st year Rs.4,00,000/-, 2nd year Rs.4,40,000/-, 3rd year Rs.4,84,000/-, 4th year Rs.5,32,000/- and 5th year Rs.5,85,000/-.

c). It is further stated that, the defendant No.1 agreed to repay the said loan with interest @ 11.25% per annum and penal interest @5% per annum. In security of said loan, the defendant No.1 has executed registered mortgage deed dated 27.08.2013. It is stated charge of Rs.5,85,000/- was created on the said loan and also hypothecated crops grown in the said lands. Apart from mortgage deed, the defendant No.1 also executed Kisan credit card, term loan facility agreement and declaration. The plaintiff bank has credit the sanctioned loan to the account of defendant No.1 on 29.08.2013.

d). It is further stated that, the defendant No.2 stood as surety to the said loan and executed necessary documents in favour of plaintiff bank. The defendants are also executed acknowledgment of debts on 07.05.2015, 05.04.2018, 06.08.2020 and 20.03.2023.

e). It is further stated that, the defendants failed to make repayment of loan with interest as agreed, inspite of request made by the plaintiff bank authorities. Therefore, the plaintiff bank issued notice through counsel on 04.03.2021 calling upon the defendants to clear off entire dues. The said notice served upon the defendants but the defendants failed to make repayment of loan. Therefore, cause of action arise to file the present suit. On these and other grounds sought to decree the suit.

3. After receipt of suit summons, the defendant No.1 appeared through Sri. AJV Adv and the defendant No.2 appeared through Sri. SCU Adv. The defendant No.1 contested the case by filing written statement. The defendant No.2 not contested the case by filing written statement.

a). In the written statement, the averments of the plaint are categorically denied. It is stated that, the plaintiff has filed present suit by suppressing the real facts. It is denied that, the defendant No.1 had obtained crop loan from the plaintiff bank for raising sugarcane crops in the land Sy.No.105/1 measuring 04 acres 02 guntas and land

Sy.No.105/2 measuring 04 acres 03 guntas of Awaradi village. It is further denied that, the plaintiff bank has sanctioned loan of Rs.4,00,000/- for the 1st year, Rs.4,40,000/- for 2nd year, Rs.4,84,000/- for 3rd year, Rs.5,32,000/- for 4th year and Rs.5,85,000/- for 5th year. It is stated that, the plaintiff bank not given drawing power from cash credit limit for the 4th year for Rs.5,32,000/- and 5th year Rs. 5,85,000/-. The plaintiff bank has sanctioned the loan of Rs.5,85,000/- but in fact they have given only Rs.4,84,000/-. Hence, the suit for recovery of money of Rs.5,85,000/- is false and denied specifically.

b). Further it is denied that, the defendants agreed to make repayment of said loan with interest @ 11.5% per annum and over interest @ 5% per annum. It is denied that, the defendant No.1 has executed a registered mortgage deed and created charge of Rs.5,85,000/- over the lands. It is further denied that, the defendant No.1 hypothecated sugarcane crops grown in the said lands. It is denied that, the defendants are also executed acknowledgment of debts confirming the loan. It is stated the defendants have not executed any such documents in favour of plaintiff bank. The alleged

acknowledgment of debts are created documents to file the present suit. The suit of plaintiff is not within law of limitation.

c). It is stated that, rate of over due interest @ 5% was not informed to the defendants. It seems that, the plaintiff bank has charged higher interest on Rs.5,85,000/- which is not taken by the defendants.

d). The plaintiff bank not taken into credit of loan account of defendants as and when the defendants have repaid the loan amount. The statement submitted by the plaintiff bank is false and there is no such dues as on the date of filing of the suit. By suppressing the real facts, the real facts, the plaintiff bank has filed present suit and therefore it is not at all maintainable. On these and other grounds sought to dismiss the suit.

4. On the basis of pleadings of both side, the following issues are framed;

ISSUES

1. Whether the plaintiff bank proves that, the defendant No.1 has borrowed loan of Rs.5,85,000/-, the

defendant No.2 stand as a guarantor to the said loan and they have executed the necessary documents?

2. Whether the plaintiff bank is entitled for the relief as sought?
3. What order or decree?

5. In order to prove the case, the manager of plaintiff bank namely Deepak K.D has been examined as PW-1 and in support of the case, 12 documents got marked as Ex.P-1 to P-12. On the other hand, the defendant No.1 herself examined as DW-1 but no documents got marked in support of her defence.

6. Heard arguments both sides and perused the materials.

7. My answer to the said issues are as follows:

Point No.1 : **In the Affirmative.**

Point No.2 : **In the Partly Affirmative**

Point No.3 : As per the final order,
for the following-

: REASONS :

8. **Issue No. 1 :** It is the case of the plaintiff bank is that, the defendant No.1 had availed crop loan of Rs.5,85,000/- agreeing to

repay the same with an interest at the rate of 11.25% per annum and penal interest at the rate of 5 % per annum. The defendant No.1 and defendant No.2 have executed the necessary documents in security of said loan. The defendants failed to make repayment of dues and therefore presented this suit. The material averments of plaint are categorically denied by the defendant No.1, however at para 2 of written statement, the sanction of loan of Rs.5.85,000/- by the plaintiff bank is admitted but it is contention of the of the defendant No.1 is that, the plaintiff bank given loan of Rs.4,84,000/- only to the defendant No.1. So, it is clear that, the defendant No.1 admitted the receipt of loan of Rs.4,84,000/- from the plaintiff bank. Though the defendant No.1 admitted loan transaction and receipt of Rs. 4,84,000/- but it is specifically denied that, herself and defendant No.2 have executed the necessary documents in favour of plaintiff bank. Therefore the plaintiff bank required to prove the case by producing sufficient material to the court. In order to prove this fact, the plaintiff-bank examined Pw.1 who is the manager of said bank. Evidence of Pw.1 is accepted in the form of affidavit as contemplated U/o 18 R 4 of CPC. In his evidence, Pw.1

clearly stated that, they have sanctioned the loan of Rs.5,85,000/- on 22.08.2013 to the defendant No.1 and drawing power has been given to the defendant No.1 for the 1st year Rs.4,00,000/-, 2nd year for Rs.4,40,000/-, 3rd year for Rs.4,84,000/-, 4th year Rs.5,32,000/- and 5th year Rs.5,85,000/-. Pw.1 further deposed that, the defendant No.2 stood as a guarantor to the said loan and they are executed necessary documents agreeing the terms and conditions of the bank and also agreed to make repayment with interest including mortgage in respect of lands and also hypothecated the sugar cane crops. In support of the case got marked the documents at Ex.P.1 to 12. Ex.P1 is loan account statement, Ex.P.2 is Loan sanction letter, Ex.P.3 is agreement, Ex.P.4 is mortgage deed, Ex.P.5 is Declaration, Ex.P.6 is AOD, Ex.P.7 to 9 are endorsements, Ex.P.10 is copy of notice, Ex.P.11 is postal receipts and Ex.P.12 is postal acknowledgments.

9. On perusal of documents got marked by the plaintiff Bank, particularly Ex.P.2, it is very much clear that, the plaintiff bank has sanctioned the loan of Rs.5,85,000/- to the defendant No.1, Ex.P.3, 5 to 9 are the other documents like hypothecated agreement, declaration,

acknowledgment of debts etc, executed by the defendants, shows that, the defendants acknowledged debts and agreed the terms and conditions of the bank and also agreeing for repayment. Ex.P.4 is the simple mortgage deed executed by the defendant no.1 shows that, she was executed simple mortgage deed in favour of bank authorities in respect of land Sy.No.105/1 measuring 4 acres 02 guntas and land Sy.No.105/2 measuring 4 acres 03 guntas situated at Avaradi village, Tq: Gokak and Ex.P.1 is the Statement of Account of defendant No.1, is clearly reveals that, as on the date of filing of this suit there was dues of Rs.14,06,538.62/-.

10. Learned counsel for the defendant vehemently argued that, the plaintiff bank not at all given the loan amount of Rs. 5,85,000/- but they have charged on the said amount and filed suit by claiming more interest. Pw1 in the cross examination clearly stated that, they have sanctioned the loan of Rs. 5,85,000/- to the defendant No.1 but they have disbursed Rs.4,40,000/- as per drawing power. Though, it was not mentioned in the plaint but receiving said amount by the defendant No.1 is not at all denied. Dw.1 in the cross-examining admitted that, the

bank authorities have deposited the loan amount of Rs.75,000/- and Rs.3,20,000/- to her account. She further admitted that, she has made repayment of said loan amount. Dw.1 further admitted that, on 16.10.2014, again the bank authorities deposited the loan amount of Rs.4,40,000/-to her account. These material admissions in the cross examination of Dw.1 are sufficient to show that, though the plaintiff bank sanctioned loan of Rs. 5,85,000/- to the to the defendant No.1 on 22.08.2013 but as per drawing power of the borrower has deposited 1st year Rs.4,00,000/- and after repayment of said amount deposited Rs. 4,40,000/- for second year. So, the material evidence on record are clearly goes to show that, the bank authorities sanctioned the loan and disbursed the same as per drawing power to the defendant No.1.

11. Herein though the defendant No.1 denied the execution of mortgage deed in favour of plaintiff bank. But Ex.P.4 is registered Mortgage deed executed by the defendant No.1 in favour of plaintiff Bank in respect of her landed properties stated above. The Mortgage deed carries presumption of validity with the defendant No.1. It is always presumed that, registered document is valid. The burden lies on

the other side to rebut the presumption by leading cogent and clinching evidence. In this regard the **Hon'ble Supreme Court of India in the decision reported in 2006 SAR (Civil) 457 (Guruswaroop Joshi V.s Beena Sharma & Others), which reads as under:**

“24. There is a presumption that a registered document is validly executed. A registered document, therefore, prima facie would be valid in law. The onus of proof, thus would be on a person who leads evidence to rebut the presumption.”

12. Herein as already stated above that, it is admitted fact the sanction of loan and disbursement of loan as per drawing power to the account of defendant No.1. Ex.P.4 is shows that, the defendant No.1 obtained loan from the plaintiff bank and executed mortgage deed as per Ex.P.4 on sanction amount. The defendant No.1 simply stated that, she has not executed any mortgage deed nor any other documents in favour of plaintiff bank. As already stated above, there is a presumption that a registered document is validly executed and registered document, prima facie would be valid in law. The onus of proof, thus would be on a person who leads evidence to rebut the presumption.

The defendant No.1, except oral evidence of Dw.1 not produced any material to rebut the said presumption. Therefore, I hold that, the defendant has not at all rebutted the presumption arising out of Ex.P.4.

13. On careful perusal of oral evidence of Pw-1 coupled with documentary evidence at Ex. P.1 to P-12 establishes that, the defendant No.1 had availed the loan from the plaintiff bank agreeing to repay the same with interest at the rate of 11.25% P.A and penal interest at the rate of 5% P.A. The defendant No.2 stood as a guarantor and executed the necessary documents in favour of the bank. The defendants failed to repay the said amount within the stipulated period inspite of request made by the plaintiff bank. Therefore I hold that, the oral evidence of PW-1 and documentary evidence at Ex. P-1 to 12 are very much cogent and consistent with the case of the plaintiff bank and plaintiff bank is proved their case by producing sufficient material to the court.

14. Further, Ex.P-1 is statement of account maintained by the plaintiff bank in its ordinary course of business. This document carries presumption under section 4 of bankers book evidence act 1981. The

Hon'ble supreme court of India in State Bank of India V/s Yumnam Gouramani Singh-AIR-1994 SC- 1644, it has been held that, if the entries in the books of account produced by bank are corroborated by other evidence, it is sufficient proof of loan transaction. Even, that apart other documents produced by the plaintiff bank also establish that, the plaintiff bank sanctioned the loan of Rs. 5,85,000/- but disbursed the loan amount as per drawing power. The plaintiff bank disbursed 1st year for Rs. 4,00,000/-to the defendant No.1, admittedly which was repaid by the defendant No.1. The plaintiff bank disbursed 2nd year loan amount of Rs.4,40,000/- and deposited the same to the account of defendant No.1 but the defendant failed to make repayment of said loan and get it renewal. It was also admitted by the Dw.1 in the cross-examining stated supra. The plaint averments discloses that, though bank authorities sanctioned the loan amount of Rs.5,85,000/- to the defendant No.1 but the admission in the cross of Dw.1 and Ex.P.1 statement of account of defendant No.1, reveals that, the present suit is for recovery of money of Rs.4,40,000/- with interest but not on the sanctioned amount of Rs. 5,85,000-. Therefore, cumulative effect of oral

testimony as well as documentary evidence placed by the plaintiff-bank are sufficient to hold that, the defendants are liable to pay Rs.14,06,538.62/- to the plaintiff bank. Hence, I do not find any reasons to disbelieve the case of the plaintiff bank. The plaintiff bank has been able to prove that, that the defendant No.1 borrowed a sum of Rs.4,40,000/- but failed to make repayment. Therefore, the defendants are liable to clear off dues amount of Rs.14,06,538.62/- with future interest. Except oral evidence of Dw.1, nothing has been placed by the defendant No.1, to disprove the case of the plaintiff bank. The defendant No.1 failed to prove her defence by placing sufficient material. Hence, without much discussion I hold that, the plaintiff is proved the Issue No.1. **Accordingly, Issue No.1 is answered in the Affirmative.**

15. Issue No. 2 : The plaintiff bank pleaded that, the defendants agreed to make repayment of said loan with interest at the rate of 10.25% P.A and penal interest of Rs/5% P.A. It is stated that, the plaintiff bank claimed the future interest at the rate of 10.25% P.A and penal interest of 5% p.m. But, the plaintiff bank has not produced any

guidelines of Reserve Bank of India to show that they are entitled to claim an interest at the rate of 15.25% P.A. The statement of accounts at Ex. P.1 shows that, the defendants not paid the loan amount as agreed and thereby committed default. The materials placed on record clearly goes to show that, the defendants have violated the terms and conditions of loan agreement. Hence, looking in to the nature of loan, this court is of the opinion that if the defendants are directed to repay the loan amount with future interest at the rate of 6% P.A, it will meet the ends of justice. Therefore, this court is of the considered view that, the defendants are liable to pay the suit claim amount with an interest at the rate of 6% P.A. **Accordingly, the Issue No.2 answered in the partly affirmative.**

16. Issue No.3: In view of my findings on issue No.1 and 2, the plaintiff bank has been able to prove that the defendant no.1 had availed the loan of Rs.4,0,000/- by executing the documents in its favour agreeing to repay the with an interest. The defendant No.2 stood guarantor. Therefore they are liable to pay sum of

Rs.14,06,538.62/- with future interest @ 6%. Hence, I proceed to pass the following order.

ORDER

The suit of the plaintiff bank is hereby decreed in with cost.

The defendants are hereby directed to pay jointly, the suit claim amount of Rs.14,06,538.62/- paise with interest @ 6% per annum within 2 months from the date of the decree till its realization.

If the defendants are failed to clear off entire outstanding dues within 2 months, the plaintiff bank is entitled to recover the same b selling the mortgaged properties with due process of law.

Draw preliminary decree accordingly.

(Dictated to the Stenographer, transcribed, computerized, print out taken by her, corrected, singed and then pronounced by me in the open court on this the 13th day of March 2026).

(Ashappa)
Senior Civil Judge & JMFC.,
Banahatti.

ANNEXURE**1) Witnesses examined on behalf of plaintiff:-**

PW.1 : Deepak K.D. S/o: K.T. Devappa.

2) Witnesses examined on behalf of defendants:

DW.1 : Smt Kashawwa W/o: Tammanna Horatti.

3) Documents exhibited on behalf of plaintiff:-

Ex.P.1 : Statement of account

Ex.P.2 : Loan sanction letter

Ex.P.3 : Agreement

Ex.P.4 : Mortgage deed

Ex.P.5 : Declaration

Ex.P.6 : Acknowledgment of debts

Ex.P.5 : Letter of guarantee

Ex.P.7 to 9: 3 Endorsements

Ex.P.10 : Office copy of Legal notice

Ex.P.11 : 2 Postal receipts

Ex.P.12 : 2 Postal acknowledgments.

4) Documents exhibited on behalf of the defendants:

--NIL--

**Senior Civil Judge & JMFC.,
Banahatti.**