Form No. 9 (Civil) Title Sheet for Judgment in suits (R P 91)

GOVERNMENT OF KARNATAKA
TITLE SHEET FOR JUDGMENT IN SUITS

IN THE COURT OF THE PRL. CIVIL JUDGE AND J.M.F.C., AT GOWRIBIDANUR

Dated this 28th day of July 2026

:: PRESENT ::
SRI. GANESHA.N
M.A., L.L.B.,
Prl. Civil Judge and J.M.F.C.,
Gowribidanur

ORIGINAL SUIT NO.227/2025

Plaintiff/s : Canara Bank,
A Bank Constituted under
Banking Companies (Acquisition & Transfer of Undertaking) Act 1970
Having its Head Office at J.C. Road, Bangalore, and a branch office at Gowribidanur Town,
Represented by its Branch Manager.

(Rep. by learned counsel Sri. G. Mallikarjuna)

// Versus //

Defendant/s : **1.** Sri. Thimmaiah @ Thippanna
S/o Late. Venkataravanappa,
Major by age.

2. Kum. Vedamma
D/o Thimmaiah @ Thippanna

3. Prashanth
S/o Thimmaiah @ Thippanna

Defendant Nos.2 and 3 are minors
Represented by their father
Thimmaiah @ Thippanna as
Natural Guardian.

All are R/at Halaganagahalli village,
Kasaba Hobli,
Gowribidanur Taluk.

**(Rep. by learned counsel
Smt. Bhargavi Y.N.)**

Date of institution of the suit	:	29.03.2025
Nature of the suit	:	Recovery of Money
Date of the commencement of Recording of the evidence	:	18.07.2026
Date of which the judgment was Pronounced	:	28.07.2026
Total Duration	:	Year/s 01 Month/s 03 Day/s 29

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(GANESHA.N)
Prl. Civil Judge and J.M.F.C,
Gowribidanur.

JUDGMENT

The plaintiff-bank has instituted the present suit against the defendants seeking a preliminary mortgage decree for recovery of a sum of Rs.4,58,367/-, together with current interest at the rate of 10.10% per annum from 30.09.2024, with half-yearly rests, and penal interest at the rate of 2% per annum on the overdue amount from the date of the suit until realization.

2. The plaintiff-bank has further sought that reasonable time be granted to the defendants to pay the decretal amount and that, in the event of their failure to pay the amount within the time fixed by this Court, a final decree be passed for recovery of the decretal amount by sale of the mortgaged suit schedule property, with the sale proceeds being appropriated towards satisfaction of the decree in accordance with law.

SUIT SCHEDULE PROPERTY

All that piece and parcel of the immovable property bearing Old Sy.No.141, Block No.5, corresponding to New Sy.No.275, measuring 3 acres 06 guntas, situated at Chandandur Village, Kasaba Hobli, Gowribidanur Taluk, bounded on:

East by	: Land of Venugopal Reddy;
West by	: Government Land;
North by	: Land of Balagopal Reddy; and
South by	: Land of Chikkanna.

THE PLAINTIFF'S CASE IN COMPENDIOUS:

3. On 09.03.2020, the defendants approached the plaintiff-bank seeking financial assistance to the extent of Rs.3,00,000/- for the purpose of cultivation of crops. Upon consideration of their request, the plaintiff-bank sanctioned a loan of Rs.3,00,000/- under the Kisan Credit Card facility. For having availed the said loan, the defendant No.1 executed an Agreement and Deed of Hypothecation for Kisan Credit Card on 16.03.2020 in favour of the plaintiff-bank, agreeing to repay the loan amount together with contractual interest and other charges in accordance with the terms and conditions of the loan transaction. In addition to the security documents executed in connection with the Kisan Credit Card facility, the defendant No.1, namely Thippanna, acting for himself and as guardian of his two children, namely Vedamma and Prashanth, who are arrayed as defendant Nos.2 and 3, executed a Simple Mortgage Deed dated 09.03.2020 in favour of the plaintiff-bank in respect of the suit schedule property. The defendants agreed to pay interest at the rate of 9.60% per annum with half-yearly rests, subject to variation from time to time. They also agreed to pay penal interest at the rate of 2% per annum on the overdue amount in the event of default. The defendants were required to repay the loan amount together with accrued interest in accordance with the terms of the agreement. However, they failed to repay the principal amount and the interest accrued thereon. The officials of the plaintiff-bank are stated to have contacted the defendants on several occasions and requested them to regularize the loan account. Though the defendants allegedly promised to clear the outstanding amount, they failed to honour their assurances. Consequently, the loan account became irregular. According to the books of account maintained by the plaintiff-bank in the ordinary course of its banking business, a sum of Rs.4,58,367/- was due and payable by the defendants as on 30.09.2024. Despite repeated demands, the defendants failed to discharge the outstanding liability. Therefore, the plaintiff-bank was constrained to institute the present suit seeking recovery of the amount by enforcement of the mortgage created over the suit schedule property.

4. After service of suit summons, defendant Nos.1 to 3 appeared before this Court through their learned counsel. However, despite having entered appearance and having been afforded sufficient opportunity, the defendants did not file their written statement. The defendants have also not cross-examined PW.1 and have not adduced any oral or documentary evidence in rebuttal of the case put forward by the plaintiff-bank.

5. In order to establish its case, the plaintiff-bank examined its Manager, namely Sri C. Vivek as PW.1. In support of the oral evidence of PW.1, the plaintiff-bank produced and got marked the Exs.P.1 to 4.

6. Heard arguments advanced by the learned counsel for the plaintiff bank and this Court perused entire materials on record. Having heard arguments and having perused the documents on record, the following points would arise for determination of this Court.

POINTS

1. Whether the plaintiff-bank proves that the defendants availed a loan of Rs.3,00,000/- under the Kisan Credit Card facility and executed the relevant loan documents in favour of the plaintiff-bank?

2. Whether the plaintiff-bank proves that a simple mortgage was created in its favour over the suit schedule property as security for repayment of the loan amount?

3. Whether the plaintiff-bank proves that the defendants committed default in repayment of the loan and that a sum of Rs.4,58,367/- was due and payable as on 30.09.2024?

4. Whether the plaintiff-bank is entitled to recover the suit claim together with interest and penal interest as prayed for?

5. Whether the plaintiff-bank is entitled to a preliminary mortgage decree for sale of the suit schedule property in the event of non-payment of the decretal amount within the time fixed by this Court?

6. What order or decree?

7. Having regard to the entire materials on record and having regard to the arguments being advanced, this Court answered Point Nos.1 to 3 and 5 in the **Affirmative,** Point No.4 **Partly** in the **Affirmative** and Point No.6 as per final order for the following:

REASONS

8. **POINT NOS.1 TO 3**: Since these points are interconnected and arise out of the same transaction, they are taken up together for consideration to avoid repetition. The specific case of the plaintiff-bank is that the defendants requested for financial assistance for cultivation of crops and that, acting upon their request, the plaintiff-bank sanctioned and disbursed a sum of Rs.3,00,000/- under the Kisan Credit Card facility.

9. PW.1, who is the Manager of the plaintiff-bank, has categorically deposed regarding the sanction and disbursement of the loan. His evidence is supported by Ex.P.1, the Agreement and Deed of Hypothecation for Kisan Credit Card dated 16.03.2020. Ex.P.1 evidences the contractual relationship between the plaintiff-bank and defendant No.1. It discloses that defendant No.1 availed the credit facility and agreed to repay the amount together with the applicable interest and charges. It further shows that the loan was sanctioned for an agricultural purpose and that the borrower undertook to comply with the terms of the financial facility.

10. The plaintiff-bank has also produced Ex.P.2, the Simple Mortgage Deed dated 09.03.2020. The said document discloses the creation of a mortgage in favour of the plaintiff-bank over the suit schedule property as security for repayment of the loan amount. The particulars of the property mentioned in Ex.P.2 correspond with the property described in the schedule appended to the plaint. Ex.P.3, the certified copy of the Encumbrance Certificate, further corroborates the existence of the mortgage transaction concerning the suit schedule property.

11. The plaintiff-bank has produced Ex.P.4, the statement of account maintained in respect of the loan account of defendant No.1. The entries in Ex.P.4 disclose the loan transaction, debits, credits, accrual of interest and the amount outstanding in the account. The statement of account is maintained by the plaintiff-bank in the ordinary and regular course of its banking business. PW.1 has spoken to its contents. There is no cross-examination challenging the correctness, authenticity or admissibility of the entries contained therein.

12. It is settled that entries in the books of account regularly maintained in the course of business are relevant.

In the present case, the statement of account is not the sole basis of the claim. It is supported by the oral testimony of PW.1 and by the loan and security documents marked as Exs.P.1 and P.2. The defendants entered appearance through their counsel but did not file their written statement. Therefore, there is no specific denial of the execution of Exs.P.1 and P.2 or of the receipt of the loan amount. The defendants have neither cross-examined PW.1 nor entered the witness box. They have not produced any receipt, account extract or other material to show that the loan was repaid, that the account was regularized or that the amount claimed by the plaintiff-bank is incorrect. Mere appearance in the proceedings, without filing a written statement or contesting the evidence, does not amount to rebuttal of the plaintiff's case. The evidence adduced by the plaintiff-bank must nevertheless be independently examined by the Court. Upon such examination, this Court finds that the oral and documentary evidence produced by the plaintiff-bank is consistent, cogent and sufficient to establish the loan transaction, execution of the security documents, creation of the mortgage and default in repayment.

13. The testimony of PW.1 has remained wholly unchallenged. There is nothing on record to disbelieve his evidence. The documents produced by the plaintiff-bank have also remained uncontroverted. Ex.P.4 discloses that a sum of Rs.4,58,367/- was outstanding in the loan account as on 30.09.2024. In the absence of any evidence showing repayment or discharge, the defendants cannot avoid their liability to pay the outstanding dues.

14. The suit is one for enforcement of the security created in favour of the plaintiff-bank. The cause of action arose on account of the continued default committed by the defendants and their failure to repay the amount despite demands. There is no material before the Court to hold that the claim is barred by limitation. Accordingly, the plaintiff-bank has proved that the loan of Rs.3,00,000/- was availed, that the relevant loan documents were executed, that a simple mortgage was created over the suit schedule property and that a sum of Rs.4,58,367/- remained outstanding as on 30.09.2024. Hence, Point Nos.1 to 3 are answered in the **Affirmative**.

15. POINT NO.4:- The plaintiff-bank has claimed current interest at the rate of 10.10% per annum from 30.09.2024 with half-yearly rests and penal interest at the rate of 2% per annum on the overdue amount from the date of the suit until realization. Ex.P.1 shows that the borrower agreed to pay interest at the contractual rate, subject to variation in accordance with the applicable banking norms and directions of the plaintiff-bank. PW.1 has deposed that the applicable rate as on the date of the suit was 10.10% per annum. The defendants have not denied the agreed rate of interest. They have not cross-examined PW.1 regarding variation of the interest rate or the computation made by the plaintiff-bank. They have also not produced any material to establish that the rate claimed is contrary to the contract or the applicable banking guidelines. However, the grant of interest from the date of the suit until realization in a mortgage suit is governed by the discretion vested in the Court under Order XXXIV Rule 11 of the Code of Civil Procedure. Even where the transaction contains a stipulation regarding interest, the Court is required to exercise its discretion judiciously with regard to the nature of the transaction, the conduct of the parties and the circumstances of the case. The loan in question was granted for cultivation of crops. Considering the nature of the transaction, the contractual terms and the continued default committed by the defendants, the plaintiff-bank is entitled to interest at the rate of 10.10% per annum on the amount adjudged from 30.09.2024 until realization. However, insofar as the claim for penal interest at 2% per annum over and above the current interest is concerned, the same cannot be granted mechanically for the entire pendente lite and future period. Penal interest is intended to secure timely repayment and compensate for default. It should not result in an unconscionable or excessive burden by capitalizing one form of interest over another. In the circumstances of the case, the ends of justice would be met by awarding interest at the rate of 10.10% per annum on the decretal amount from 30.09.2024 until realization. The amount already calculated and included in the suit claim as on 30.09.2024 shall remain undisturbed. The plaintiff-bank is not entitled to a separate and additional penal interest of 2% per annum for the pendente lite and future period. Accordingly, Point No.4 is answered **Partly** in the **Affirmative**.

16. <u>POINT NO.5</u>:- The suit is instituted for enforcement of a simple mortgage. The plaintiff-bank has proved the mortgage transaction by producing Ex.P.2. It has also proved the amount secured by the mortgage and the default committed in repayment. In a suit for sale based on a mortgage, where the plaintiff succeeds in establishing the mortgage debt, the Court is required to pass a preliminary decree under Order XXXIV Rule 4 of the Code of Civil

Procedure. The preliminary decree must declare the amount due to the mortgagee and grant the mortgagor a reasonable period within which to pay the amount. If the mortgagor fails to pay the amount within the time fixed by the preliminary decree, the mortgagee becomes entitled to apply for a final decree for sale of the mortgaged property. The sale proceeds are thereafter required to be applied towards satisfaction of the decretal amount in accordance with law.

17. In the present case, the plaintiff-bank has established that the sum of Rs.4,58,367/- was due as on 30.09.2024 and that the debt is secured by the mortgage created over the suit schedule property. Therefore, the plaintiff-bank is entitled to a preliminary mortgage decree declaring the amount due and granting the defendants reasonable time to pay the decretal amount. Considering the amount involved, the nature of the agricultural loan and the circumstances of the case, six months' time from the date of the decree would be reasonable for payment of the amount. If the defendants fail to pay the decretal amount within the said period, the plaintiff-bank shall be entitled to apply for a final decree for sale of the mortgaged suit schedule property. Upon such application, the property may be sold in accordance with law and the net sale proceeds applied towards satisfaction of the decretal dues. The decree for enforcement of the mortgage shall operate against the right, title and interest of the mortgagors in the suit schedule property. Any question concerning the extent of the respective interest of the parties in the mortgaged property, if it arises at the stage of the final decree, shall be considered in accordance with law. Accordingly, Point No.5 is answered in the **Affirmative**.

18. POINT NO.6:- In view of the findings recorded on Point Nos.1 to 5, the suit of the plaintiff-bank deserves to be decreed in part with costs. Hence, the following:

ORDER

The suit of the plaintiff-bank is hereby partly decreed with costs.

It is hereby declared that a sum of Rs.4,58,367/- is due and payable to the plaintiff-bank by the defendants as on 30.09.2024 under the loan transaction secured by the Simple Mortgage Deed dated 09.03.2020.

The defendants are hereby directed to pay to the plaintiff-bank a sum of Rs.4,58,367/-, together with interest at the rate of 10.10% per annum from 30.09.2024 until realization, along with the costs of the suit.

The claim of the plaintiff-bank for separate penal interest at the rate of 2% per annum for the *pendente lite* and future period is hereby rejected.

The defendants are granted six months' time from the date of this decree to deposit before this Court the entire decretal amount, including interest and costs, for payment to the plaintiff-bank.

Upon such payment being made within the stipulated period, the plaintiff-bank shall deliver to the defendants all documents in its possession or power relating to the mortgaged property and shall, if necessary, execute such documents as may be required for discharging the mortgage in accordance with law.

In the event of the defendants failing to pay the decretal amount within the period stipulated above, the plaintiff-bank shall be at liberty to apply for passing of a final decree for sale of the mortgaged suit schedule property.

Upon passing of the final decree, the suit schedule property shall be brought to sale in accordance with law, and the net sale proceeds shall be appropriated towards satisfaction of the decretal amount, interest, costs and expenses of sale.

If the net sale proceeds exceed the amount due to the plaintiff-bank, the surplus amount shall be paid to the defendants.

Draw a preliminary decree accordingly.

(Dictated to the Stenographer, directly to the Computer and corrected and pronounced by me in the open court on this the **28th day of July 2026**)

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(GANESHA.N)
Prl. Civil Judge and J.M.F.C,
Gowribidanur.

ANNEXURE

List of witnesses examined on behalf of plaintiff:

P.W-1 : C.Vivek

List of witnesses examined on behalf of defendants:

- N I L –

List of documents exhibited on behalf of plaintiff:

Ex.P.1 : Agreement and Deed of Hypothecation for Kisan Credit Card dated 16.03.2020

Ex.P.2	:	Simple Mortgage Deed for running facility to agriculturists dated 09.03.2020
Ex.P.3	:	Encumbrance Certified
Ex.P.4	:	Statement of Account.

List of documents exhibited on behalf of defendants:

- N I L –

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(GANESHA.N)
Prl. Civil Judge and J.M.F.C,
Gowribidanur.