KACM210007292024

IN THE COURT OF PRL. CIVIL JUDGE & JMFC., KADURU.

Present:- NALINA S.C., B.A.L.L.B.,
Prl. Civil Judge and JMFC,
KADURU.

Dated this the 6th day of August 2026

O.S.No. 140/2024

Plaintiff		UNION BAND OF INDIA, YAGATI BRANCH, Kadur taluk, represented by its Manager, Sri Kalintha Raju S/o Kalintha Ratna Raju, Aged about 27 years, Branch Manager, Union Bank, of India, Yagati Village at Post, Kadur Taluk, Chickmagaluru District **(By Sri/Sri.HMR. Advocate)**
		V/s
Defendant:	01	Smt.H.B.Bharathi W/o Late U.R.Gurumurthy, Aged about 51 years,
	02	Sri.Khushwanth Kumar S/o U.R.Gurumurthy, Aged about 31 years, Both are R/o Udugere village @ Post, Yagati Hobli, Kadur Taluk. **(Defendant No.1 & 2 Exparte)**

Date of Institution of Suit:	16.02.2024
Nature of the suit:	Recovery of money
Date of the commencement of recording of the evidence:	08.07.2026

Date on which the Judgment was pronounced	:	06.08.2026		
Total Duration		Years	Month	Days
		02	05	21

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(Nalina S.C.)
Prl.Judge & JMFC.,
Kadur.

JUDGMENT

This suit is filed by the plaintiff bank against the defendants for recovery of an amount of Rs.3,83,430/- along with agreed rate of interest at 13.25% from the date of suit till the date of realization, if failure to pay the decretal amount as aforesaid a decree for the sale of mortgaged property in terms of Order 34 of CPC proceeds of the sale to be adjusted by the plaintiff for the satisfaction of the decree amount.

2. The averments of the plaint in brief are as follows:

The defendant No.1 approached the plaintiff bank for financial assistance for the purpose of growing coconut and Banana. After due verification, the plaintiff bank has sanctioned loan of Rs.3,70,000/- under crop loan under CCCCK A/c No.560961000085729 on 24.12.2014. The defendants agreed to abide by all the terms and conditions of the plaintiff bank as per the directions of Reserve Bank of India. The defendants had executed Hypothecation Agreement for agricultural loan and other loan documents and agreed to interest of Rs. 2% PA subject to a minimum of 11.25% per annum and as may be revised by the Bank from time to time. Further they have mortgaged the suit schedule properties infavour of the plaintiff bank through the simple registered mortgage deed on 16.12.2014 vide S.R.No.KDR-1-05292/2014-15 registered on the same day. They have agreeing to pay back the loan amount with in ten years with interest with annual renewal, but the defendants failed the same and become defaulter.

2(a). The defendants did not repay the loan as agreed and became willful defaulter of **Rs.3,83,430/-**. Inspite of several demands, personal contacts and issue of notice to the defendants, they failed and neglected to pay the suit loan account even though the same has become overdue. Hence, the present suit is filed.

3. DESCRIPTION OF THE SUIT SCHEDULE PROPERTIES:-

(1) Coconut Garden property bearing Sy.No.83/1, measuring 0 acres 26 guntas situated at Udugere village, Yagati Hobli, Kadur Taluk Chikkamagaluru District bounded on the East by: Land of Thimmappa; West by: Land of Manjappa; South by: Land of Thippeshappa and North by: Land of Rajashekharappa.

(2) Coconut Garden property bearing Sy. No. 83/4, measuring 0 acres 18 guntas situated at Udugere village, Yagati Hobli, Kadur Taluk Chikkamagaluru District bounded on the East by: Land of Rajashekharappa; West by: Road; South by: Road and North by: Land of Narasimhappa

(3) Landed property bearing Sy.No. 156/2, measuring 0 acres 13 guntas situated at Udugere village, Yagati Hobli, Kadur Taluk Chikkamagaluru District bounded on the East by: Land of Ramappa; West by: Land of Siddappa; South by: Road and North by: land of Rudrappa.

(4) Landed property bearing Sy. No.156/4, measuring 0 acres 15 guntas situated at Udugere village, Yagati Hobli, Kadur Taluk Chikkamagaluru District bounded on the East by: Land of Basavarajappa; West by: Land of Channabasappa; South by: Land of Shekharappa and North by: Road.

(5) Landed property bearing Sy. No. 156/5, measuring 0 acres 16 guntas situated at Udugere village, Yagati Hobli, Kadur Taluk Chikkamagaluru District bounded on the East by: Land of Ramappa; West by: Land of Haladappa; South by: Land of Siddappa and North by: Land of Somashekharappa.

(6) Coconut Garden property bearing Sy. No. 161/2, measuring 0 acres 21 guntas situated at Udugere village, Yagati Hobli, Kadur Taluk Chikkamagaluru District bounded on the East by: Land of Shekharappa; West by: Land of Shekharappa; South by: Land of Basappa and North by: Land of Basappa.

(7) Coconut Garden property bearing Sy. No. 161/4, measuring 1 acres 00 guntas situated at Udugere village, Yagati Hobli, Kadur Taluk Chikkamagaluru District bounded on the East by: Land of Gangamma; West by: Land of Rajashekharappa; South by: Land of Shekharappa and North by: Halla.

4. The summons issued to the defendants and they remained absent and placed exparte.

5. The following points arose for the consideration of this Court:

<u>POINTS</u>

1. Whether the Plaintiff bank proves that the defendant had obtained the suit loan and executed the necessary documents and agreed to repay the said loan amount with interest and as defaulter of the same as pleaded in the plaint?

2. Whether the Plaintiff is entitle for the relief as sought for?

3. What order or decree?

6. The Branch manager of the Plaintiff bank has examined before the Court as PW1 and got marked Ex.P1 to Ex.P11.

7. Heard the arguments of the Learned Counsel appearing for the plaintiff bank and perused the materials on record.

8. The findings of this Court on the above said Points are as under:

POINT No.1: In the Affirmative
POINT No.2: In the Partly in the Affirmative
POINT No.3: As per the final order for the following :

R E A S O N S

9. POINT No.1: It is the case of the plaintiff bank that the defendants after obtaining the loan amount have failed to repay the same, hence the present suit is filed. As per Section 104 to 106 of the Barathiya Saksha Adiniyama the burden on the Plaintiff bank to establish the facts pleaded in the plaint.

10. The Branch Manager of the plaintiff bank has examined as PW1 by way of filing affidavit, wherein he has deposed consistence with the plaint averments. PW1 in support of his oral evidence has got marked Ex.P1 to P11. The Ex.P1 is the Loan Application, Ex.P.2 is the simple mortgage deed, Ex.P.3 is the eight RTC's, Ex.P.4 is the M.R.Extract, Ex.P.5 is the Legal notice, Ex.P.6 is the postal receipt, Ex.P.7 and 8 postal endorsement, Ex.P.9 is the Registered postal cover, Ex.P.10 and 11 are the Statement of Account.

11. This Court has carefully perused the oral and documentary evidence adduced by the PW1. There is no unchallenged evidence about the transaction of the loan and also terms and conditions mentioned in the documents. As such, court adversely inference against the defendants, as if defendants had not obtained loan or vary the condition mentioned in the documents, they definitely challenged the same. Admittedly, the plaintiff has sought for **Rs.3,83,430/-** which is due amount with agreed rate of interest. The defendants remained absent and placed exparte. The oral and documentary evidence adduced by PW1 is attained finality and unchallenged. Hence, court is of the opinion that the Plaintiff has proved the loan obtained by defendants. With these observations this Court has **answered Point No.1 in the Affirmative.**

12. <u>Point No.2:</u> So far as current and future interest is concerned, reference Section 34 of CPC is required and its extracted as here under:

> *"34.**INTEREST**:- Where and in so far as a decree is for the payment of money, the Court may, in the decree, Order interest at such rate as the Court deems reasonable to be paid on the principal sum adjudged, from the date of the suit to the date of the decree, in addition to any interest adjudged on such principal sum for any period prior to the*

institution of the suit,

2[with further interest at such rate not exceeding six per cent, per annum as the Court deems reasonable on such principal sum from] the date of the decree to the date of payment, or to such earlier date as the Court thinks fit:

[Provided that where the liability in relation to the sum so adjudged had arisen out of a commercial transaction, the rate of such further interest may exceed six per cent, per annum,but shall not exceed the contractual rate of interest or where there is no contractual rate, the rate at which moneys are lent or advanced by nationalized banks in relation to commercial transactions.

Explanation:-In this subsection,"nationalised bank" means a corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act 1970 (5 of 1970).

Explanation II.For the purposes of this section, a transaction is a commercial transaction, if it is connected with the industry, trade or business of the party incurring the liability.] (2) Where such a decree is silent with respect to the payment of further interest 3[on such principal sum] from the date of the decree to the date of payment or other *earlier date, the Court shall be deemed to have refused such interest, and a separate suit therefore shall not lie".*

13. On perusal of the Section of 34 of CPC it goes to show that the Court may in the decree order interest at such rate as the Court deems reasonable to be paid on the principal sum adjudged from the date of suit to the date of decree. In addition to any interest adjudged on principal sum for any period prior to the institution of the suit with further interest at such rate not exceeding 6% per annum as the Court deems reasonable on such principal amount sum from the date of decree to the date of payment or to such earlier date, as the Court thinks fit. If the liability is related to commercial transaction the rate of interest may exceeds 6% but shall not exceed the contractual rate of interest.

14. In the present case admittedly till filing of the suit the plaintiff has calculated the interest and sought for the suit claim. Hence this issue is only with regard to interest from the date of suit till realization.

15. Admittedly, the plaintiff has sought for **Rs.3,83,430/-** which is due amount with agreed rate of interest. This Court has carefully perused the suit documents and after perusal of the same it appears to this Court that the Defendants agreed to repay the suit loan with interest at 13.25% P.A. but the purpose of loan is growing coconut and Banana which all not for commercial improvement or transactions etc. As such, the rate of interest 13.25% P.A. is higher interest. The defendants obtained loan for growing coconut and banana, which is basic needs for livelihood. Therefore this court come to opinion that, it is just and necessary to reduce the interest rate from 13.25% to 6% per annum from the date of suit till realization. With these observations, this Court has answered Point No.2 partly in the **Affirmative.**

16. <u>Point No.3</u>: For the aforesaid discussion on Point No.1 and 2, this Court proceeds to pass the following:

<u>O R D E R</u>

The suit of the Plaintiff bank is partly decreed with cost.

The defendants are liable to pay **Rs.3,83,430/-** and with interest 6% to the principle amount from the date of the suit till the date of realization.

The defendants are liable to pay the decreetal amount within three months.

Further, if the defendants fails to pay the decreetal amount within the stipulated period, the plaintiff is having at liberty to sell the suit property/mortgaged property by applying for final decree proceedings as contemplated under Order 34 Rule 4 of CPC.

Draw preliminary decree accordingly.

(Dictated to the stenographer, corrected and then pronounced in the open Court on this the 6th day of August 2026)

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(Nalina .S.C)
Prl. Civil Judge and JMFC,
Kaduru.

A N N E X U R E

1) List of witness examined on behalf of plaintiff :-

PW-1 : Sri. Y.Gowra Naidu

2) List of documents marked on behalf of plaintiff :-

Ex.P1	-	Loan application,
Ex.P2	-	Simple Mortgage deed
Ex.P3	-	8 RTC's
Ex.P4	-	M.R.Extract
Ex.P5	-	Legal notice
Ex.P6	-	Postal acknowledgement
Ex.P7 & 8	-	Postal endorsements
Ex.P9	-	Registered postal cover
Ex.P10 & 11	-	Statement of Account.

List of witness examined on behalf of defendants:-

NIL

List of documents marked on behalf of defendants:-

NIL

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Prl. Civil Judge and JMFC,
Kaduru.