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Received on	:	09.12.2020
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Decided on	:	24.04.2026
Duration	:	Yr. Ms. Ds. 05 04 15
Exh. No. 33	:	

IN THE COURT OF SECOND JOINT CIVIL JUDGE, JUNIOR DIVISION SANGLI, DISTRICT SANGLI
(Presided over by Shri. Nitin C. Pawar)

SPECIAL CIVIL SUIT No. 682/2020

1) **Bank of India**
Body Corporate Constituted under Banking Companies (Acquisition & Transfer of undertaking)
Act, 1970 having its head office at Star House,
Bandara Kurla Complex, Bandra (E) Mumbai 400051
and a branch Shalgaon, Tal. Kadegaon, Dist. Sangli ...**Plaintiff.**

Versus

1) **Mr. Jaywant Jagannath Pawar**
Age 45 yrs., Occup.-Contractor,
R/o. Vihapur, Tal. Kadegaon, Dist. Sangli.

2) **M/s. Cane Agro Energy (India) Ltd. Raigaon**
Tal. Kadegaon, Dist. Sangli.
(A company registered under companies Act, 1956
Formerly known as Dongarai Sagreshwar Shetkari
Sahakari Sakhar Karkhana Ltd. (DSSSSK Ltd)

3) **Dongari Sahakari Sutgirni Ltd; Kolhapur**
Tal. Kadegaon, Dist. Sangli.
(A Co-op Society duly registered under the provisions
of Maharashtra Co.Op. Societies Act, 1960)

4) **Shri. Prithviraj Sayajirao Deshmukh**
Age 53 yrs., Occup.- Agriculture/Business
R/o. Kadepur, Tal. Kadegaon, Dist. Sangli. ...**Defendants.**

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For the Plaintiff : Adv. Shri. A. S. Gunde

For Defendant No.3 & 4 : Adv. Shri. B.S. Khilare

Exparte against defendant No. 1 & 2

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JUDGMENT

(Delivered on 24.04.2026)

1. This is a suit for recovery of a sum of Rs.13,89,713.79.

2. The plaintiff's case, in brief is as under :-

The plaintiff is a body corporate, constituted under the banking companies act (Acquisition & Transfer of Undertaking) Act, 1970 having its head office at Star house, Bandra Kurla Complex, Bandra(E), Mumbai 400051 and branch office amongst other places at Shalagon, Tal. Kadegaon, Dist. Sangli. Defendant No.2, formerly known as DSSSSK Ltd. and now M/s Cane Agro Energy (India) Ltd., is a public limited company registered under the Companies Act. It began operations in 1994 and manufactures sugar and its by-products. For the 2014-15 crushing season, defendant No.2 arranged for 525 Harvesting and Transport (H&T) Contractors to facilitate the harvesting and transportation of sugarcane. These contractors required capital for labor and vehicle hiring, prompting defendant No.1, an H&T contractor, to seek a credit facility from the plaintiff bank. The sugar factory approached the bank to secure loan facilities for these contractors, with defendant No.3, which is affiliated with defendants No.2 and No.4, offering property as mortgage for loan guarantees. The bank sanctioned the loans based on the terms outlined in the sanction letter dated June 24-27, 2014.

3. The plaintiff bank has contended that defendant No. 1 is a Borrower of the loan facility granted under Harvest and Transport

Contractors Scheme and defendant nos 2 to 4 are the Guarantors to the H&T Facility sanctioned and granted by the plaintiff bank to the defendant No.1. The defendant No.1 being one amongst the 525 H & T Contractors to whom the plaintiff bank has sanctioned credit Limit. The defendant No.1 as a Borrower has availed Demand Loan of Rs. 8,50,000/- from the plaintiff Bank, which Demand Loan facility is secured by the Corporate Guarantee executed by the defendant Nos.2 and 3. The defendant No.3 in its capacity as Guarantor has mortgaged its immovable property described in Para No. 11 of the plaint in favour of the plaintiff bank for securing the aggregate Credit Facility of 40 crores sanctioned to 525 H & T Contractors, which inter-alia includes defendant No.1 That, defendant No.1 has entered into agreement for harvesting and transportation in the month of September 2014, with defendant No.2 M/s. Cane Agro Energy (India) Ltd., Raigaon, Tal. Kadegaon, Dist. Sangli..

4. The plaintiff bank asserted that on the request of defendant No.1, backed by the Corporate Guarantee of defendants No.2 and 3, and the personal guarantee of defendant No.4, a Demand Loan of Rs. 8,50,000 was issued. Defendant No.1 completed all loan documentation on 29/09/2014, agreeing to all stipulated terms. The bank noted that defendants No.2 to 4 provided corporate guarantees collectively up to Rs. 40 crores for this and other loans. Specifically, defendants No.2 and No.4 executed a guarantee deed on 04/10/2014, while defendant No.3 executed a registered mortgage deed on 29/09/2014, in favor of the bank. The disbursal of loans to 525 contractors, including defendant No.1, was authorized as per the sanction letter dated 24/06/2014-27/06/2014, adhering to the specified conditions.

The plaintiff bank asserted that to secure the repayment of the H&T loan, the defendant No.1 executed and delivered various documents, including a Demand Promissory Note for Rs. 8,50,000, a pay bearer letter, a letter of authority enabling the loan disbursement, a confirmation letter with terms agreement, and a hypothecation agreement, all dated 29/09/2014.

5. The plaintiff bank asserted that, in exchange for granting a loan to defendant No.1, defendant Nos.2 to 4 agreed to act as guarantors for this loan and 525 other contractors. On 04/10/2014, they executed a letter of continuing guarantee to the plaintiff bank, jointly guaranteeing an aggregate of Rs. 40 crores for the loans. They committed to repaying the total outstanding loan with interest should the borrowers default.

6. The plaintiff bank further asserted that defendant No. 2 executed and registered a simple mortgage at the Sub-Registrar's office in Kadegaon, under Serial No. 1672/2014. The mortgagor is Dongari Sahakari Sutgirni Ltd., represented by Director Shri. Prithviraj Sayajirao Deshmukh, while the mortgagee is the Bank of India. The mortgage date is 26/09/2014, with an earlier mortgage on 06/09/2012. The properties mortgaged include land Gat No. 1113/A, totaling 5.47 hectares, with a secured amount of Rs. 40 crores.

7. The plaintiff bank further contends that the defendants failed to repay a Credit Facility by the due date of 31/10/2015, despite multiple demands for payment. The defendants acknowledged their debt in a letter signed on 01/09/2017, yet they continued to miss repayment deadlines, leading to the loan account being classified as non-performing (NPA) in September 2017. The plaintiff bank reiterates its requests for repayment, which have gone unfulfilled.

8. The plaintiff bank has included defendant No.3, Sut-girni, as a guarantor in a suit related to loans. On 03/10/2019, a legal notice was served to the Registrar under section 164 of the Maharashtra Co-operative Societies Act, 1960, indicating the bank's intention to file a suit for recovery against Sut-girni. The plaintiff argues that notice under section 164 is unnecessary because the case pertains to a loan issued to defendant No.1, guaranteed by defendants Nos.2 to 4, and does not involve Sut-girni's business as a cooperative sugar factory. Although the notice was served out of caution, the plaintiff asserts it does not imply acceptance of the notice requirement under the Act.

9. The plaintiff bank claimed a total amount of ₹16,07,679.16, which includes ₹16,04,679.16 due from the defendants as of 31/10/2019 and ₹3,000.00 for typing and miscellaneous expenses.

10. The Plaintiff bank requests a decree for:

a) Rs. 16,04,679 with 12.40% future interest from 01/11/2019 until actual payment, against defendants 1 to 4 jointly and severally. If unpaid, the mortgaged property will be sold to recover the claim amount.

b) Leave to apply for a decree for any balance if sale proceeds are insufficient, under Order 34, Rule 6 of the Code of Civil Procedure.

c) Attachment of all immovable properties of the defendants before judgment, to be sold through a court commissioner to recover outstanding dues.

d) Attachment and sale of all movable and immovable assets of defendants 1 to 4 before judgment through a appointed court commissioner for recovery.

e) Direction for defendants 1 to 4 to disclose their assets for attachment to ensure recovery of dues.

11. Defendant No. 1 and 2 failed to appear in the suit despite service of summons. Hence, the suit is proceeded *exparte* against them vide order dated 09.06.2022 and 04.08.2022 respectively. Defendant No. 3 and 4 appeared in the suit. But they failed to file Written statement despite opportunity. Accordingly, by virtue of order dated 21.09.2022, the suit is proceeded without Written Statement of defendant No. 3 and 4.

12. From the pleadings, evidence adduced by plaintiff and the arguments advanced on behalf of plaintiff, following points arise for determination. My findings thereon are mentioned against them with reasons to follow -:

No.	***Points***	***Findings***
1.	Whether plaintiff bank proves that plaintiff bank had lent a sum of Rs.8,50,000/- to defendant No. 1 ?	**In the Affirmative**

2.	Whether plaintiff bank is entitled to recover an amount of Rs.13,89,713.79 from the defendants with interest as prayed ?	**Partly In the Affirmative**
3.	What order & decree ?	**.. As per final order**

REASONS

13. On behalf of plaintiff, affidavit of evidence of representative *viz.*, **Anil Janardhan Jadhav** (PW-1) *vide* Exh.16. In support of its claim, the plaintiff has adduced following documents:

Sr.	Particulars of Document	Exh.
1	Loan Application	17
2	Sanction Letter	18
3	Memorandum Of Sanction Letter	19
4	Demand Promissory Note	20
5	Pay Bearer Letter	21
6	Letter of Authority	22
7	Loan Agreement (L516)	23
8	Letter of Defendant No. 1 Guaranteeing Repayment of Loan	24
9	Guarantee Bond Executed By Defendant No. 2	25
10	Guarantee Bond Executed by Defendant No. 3	26
11	Guarantee Bond Executed by Defendant No. 4	27
12	Deed of Registered Mortgage by Defendant No. 3 dated 29.09.2014	28
13	Deed of Registered Mortgage by Defendant No. 3 dated 09.06.2012	29
14	Notice under Section 164 of Cooperative Societies Act	30
15	Statement of Account	31

As the plaintiff failed to adduce further evidence, plaintiff's evidence was closed *vide* order dated 25.09.2024.

14. None of the defendants have adduced any evidence. In view of failure to adduce evidence, evidence of defendant No. 3 and 4 was closed *vide* order dated 19.07.2025. The suit has been proceeded *exparte* against defendant No. 1 and 2.

15. Learned Advocate for plaintiff advanced his arguments. However, no arguments were advanced on behalf of defendants. Hence, the suit is proceeded for judgment without their arguments.

As to Point No.1 to 3.

16. At the outset, it may be mentioned that in view of ratio laid down in **Rameshchand Ardhvakiya V/s. Anil Panjagani** (2003(4) *Mh.L.J.* 579) and **M/s. Star Chemicals V/s. Bhishmkumar Suri**, (1983 Mh.L.J. 580), the mere fact that the suit proceeded *ex-parte* against the defendants does not absolve the plaintiff from proving its case by adducing cogent evidence. It is also well settled, in view of above said ratio, that the plaintiff has to prove his case *prima-facie* by adducing cogent evidence where the suit is proceeded *ex-parte* or without W.S. against the defendant.

17. The affidavit of evidence of Anil Janardhan Jadhav (PW-1) *vide* Exh.16 is reiteration of plaintiff's pleadings on oath. It is completely in consonance with plaintiff's pleading. The plaintiff bank has further adduced Loan Application (Exh.17), Sanction Letter (Exh.18), Memorandum Of Sanction Letter (Exh.19), Demand Promissory Note (Exh.20), Pay Bearer Letter (Exh.21), Letter of Authority (Exh.22), Loan Agreement (L516) (Exh.23), Letter of Defendant No. 1 Guaranteeing Repayment of Loan (Exh.24), Guarantee Bond Executed By Defendant No. 2 (Exh.25), Guarantee Bond Executed by Defendant No. 3 (Exh.26), Guarantee Bond Executed by Defendant No. 4 (Exh.27), Deed of Registered Mortgage by Defendant No. 3 dated 29.09.2014 (Exh.28), Deed of Registered Mortgage by Defendant No. 3 dated 09.06.2012 (Exh.29) and Notice under Section 164 of Cooperative Societies Act (Exh.30) in support of its case. From conjoint reading of affidavit of evidence of Anil Janardhan Jadhav (PW-1) *vide* Exh.16 and the documentary evidence, it is *prima-facie* clear that defendant was in need of money for his business.

18. It is evident from the oral evidence of the witness of plaintiff and the documentary evidence that defendant No. 1 had availed demand loan of Rs. 7,35,000/- from the plaintiff bank, but he failed to maintain the account properly by making regular payments/EMIs. It is further evident from the evidence adduced by the plaintiff that sum of Rs. 13,86,713.79 is outstanding against the defendant including the unapplied accrued interest. Needless to reiterate that the suit is proceeded *exparte* against defendant No. 1 and 2 and without written statement of defendant No. 3 and 4. Thus, the contentions/averments of plaintiff bank has remained unchallenged and uncontroverted. The logical corollary of non-contest on part of defendants is that the plaintiff's claim is admitted to them.

19. As stated above, this suit is brought on the basis of the loan facility availed by defendants and the documents executed by these defendants in favour of the plaintiff bank for such loan facility. The plaintiff's claim is further based upon a statement of account. Upon perusal of Statement of Account (Exh. 31) it appears that the plaintiff bank is entitled to recover the outstanding amount of

Rs.13,86,713.79 along with interest from the date of filing of suit till its realization.

20. The plaintiff has sought interest @ 12.40% p.a. from 01.11.2019 till actual realization of the suit claim. Section 34 of the Code of Civil Procedure, 1908 governs rate of interest to be ordered in case of money claims. According to Section 34, wherever rate of interest is mentioned in the contract between the parties, such rate of interest can be taken into account while deciding future rate of interest on the principal sum adjudged. In present case although the plaintiff has claimed rate of interest @ 12.40 % p.a. in the plaint and in notice (Exh.30), no contract showing agreed contractual rate of interest i.e. 12.40% p.a is filed on record nor adduced in evidence. As per the available documentary evidence, especially Sanction Letter (Exh.18), the agreed rate of interest appears to be 10.25% p.a. Thus, the agreed rate of interest at the most can be considered in the present case would be 10.25% p.a. In the circumstances, the plaintiff can be said to be entitled to interest @ 10.25% p.a. and not @ 12.40% p.a from the date of institution of the suit till its realization.

21. To put in nutshell, evidence adduced by the plaintiff has remained unchallenged and unrebutted as the suit is proceeded *exparte* against defendant No. 1 and 2 and without written statement of defendant No.3 and 4. In the circumstances, there is hardly anything to rebut the claim of plaintiff of the sum averred in the plaint. Thus, the plaintiff has proved its entitlement for recovery of the sum of Rs.13,86,713.79 along with interest @ 10.25% p.a. from the day of institution of the suit till its recovery by adducing *prima facie* proof. Accordingly, point No. 1 is answered in the affirmative and point No. 2 is answered partly in the affirmative. For point No. 3, following order is passed.

ORDER

1. The suit is partly decreed with proportionate costs.

2. Defendants No. 1 to 4 shall take, jointly or severally the amount of Rs. 13,89,713.79 (Thirteen lacs eighty nine thousand seven hundred thirteen & seventy nine paisa only) within three months to the plaintiff bank along with interest @ 10.25% p.a. from the date of institution of this suit till realization of the said amount.

3. If the defendants fail to pay the decretal amount as above, then plaintiff shall be entitled to ancillary reliefs as per prayer clause B, C, D and E of the plaint.

4. Decree be drawn up accordingly.

(Dictated and pronounced in open Court)

NITIN CHANDRAKANT PAWAR
Digitally signed by NITIN CHANDRAKANT PAWAR
Date: 2026.04.24 18:05:55 +0530

Vita. Tal. Khanapur, Dist. Sangli. **(Nitin C. Pawar)**

Date : 24.04.2026. Jt. Civil Judge, Senior Division.

I affirm that, the contents of this P.D.F. file Judgment/ Order are same, word to word, as per the original Judgment/Order.

Name of the Stenographer : A.P.Patil

Court : Jt. Civil Judge Senior Division, Vita.

Judgment/Order signed by

the Presiding Officer on : 24/04/2026.

Judgment/Order uploaded on : 24/04/2026.