

KADG010008722023



Presented on : 03-03-2023

Registered on : 03-03-2023

Decided on : 23-04-2026

Duration : 02years, 01months, 11days.

**IN THE COURT OF  
PRL DISTRICT AND SESSIONS JUDGE DAVANGERE AT  
DAVANGERE,**

**Presided Over by SMT. VELA D.K.**

**Com.O.S./27/2023**

**Plaintiff : -**

**Canara Bank,**

A Body Corporate under the Banking Companies (Acquisition and Transfer of under Taking) Act,1970 having its Head Office at Bangalore and amongst its several branches one at P.B. Road, Davanagere represented by its Chief Manager and Power of Attorney Holder Sri Ashok A Tikhe S/o Ankush S Tikhe, Aged about 53 years, Chief Manager, Canara Bank, P.B. Road, Branch, Davanagere.

**VERSUS**

**Defendant/s: -**

Sri. Chethan S M, S/o Mallikarjunaiah,  
Aged about : 35 years, R/o 629-30,2nd Main,  
Lenin Nagara Davanagere.

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Plaintiff By: Sri. A.M.H, Advocate,

Defendant By: Sri. N.C.L./B.R. (LADC) Advocate.

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Date of institution of the Suit :	03.03.2023		
Nature of the suit (suit on pronote, suit for declaration and possession suit for injunction, etc) :	Money suit		
Date of commencement of recording of evidence:	20.11.2024		
Date on which the Judgment was pronounced:	23.04.2026		
Total duration	Year/s 02	Month/s 01	Day/s 20

**Principal District & Sessions Judge,  
Davanagere.**

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**JUDGMENT**

1. The plaintiff-bank has filed this suit against the defendant for recovery of ₹.7,48,185/- with interest at the rate of 12.9% per annum compounded monthly, till the date of realisation.

2. The brief facts of the case : -

That on 18.06.2020 the defendant had borrowed a sum of ₹.5,00,000/- for the purpose of his maize business vide loan account No.1064261000021 agreeing to repay the loan with interest @ 11.55 % p.a. In this regard, defendant had executed cash credit agreement request for OD facilities, pronote, letter of proprietor ship. The transaction of the defendant with plaintiff bank has been entered in the statement of account and the defendant had failed to repay the loan amount despite of repeated requests and demands. Presently the defendant is liable to pay interest at 10.9% p.a. and 2% over due interest. As on the date of filing of the suit, the amount due to the plaintiff bank has been ₹7,48,185/-.

The loan availed by the defendant being for commercial purpose the plaintiff bank had instituted pre-institution petition under PIMS No.55/2022 before the DLSA, Davanagere and the defendant did not agree for the settlement and whereby, non starter report came to be issued on 20.10.2022. Hence, the suit has been filed by the plaintiff.

3. In the Written Statement the defendant has contended that, he was maintaining the firms of GMC Fertiliser of Shivalingaiah and Krishna Naika Channabasaiah Traders at Davanagere RMC Yard and was running the said firms along with Abhishek S/o Krishna Naik Shivalingaiah. Business of both KC Traders and GMC Fertilisers were running with profit. The father of Abhishek is the son of Krishnanaik the Manager of

Asagodu branch Jagaluru taluk. The earlier Manager of plaintiff bank. Bhaskar, Shivakumar and their staff along with said Krishna Naik and relatives friends of M Maheshwarapa his wife Bhavya and daughter Kushi with Ravi, Chandru and Vagish Ravi had obtained cheques of the firm. Those cheques have been misused and the signatures have been forged and obtained this loan. The defendant was working as Supervisor in the said firm and the partners Abhishek had taken custody of the cheque and passbook. The defendant has not obtained any loan from the plaintiff bank.

4. Though the defendant had not obtained any loan from the plaintiff bank, the said earlier Manager, their friends and others have created an account in the name of the defendant, by colluding with one another and filed the suit for recovery of money. On the basis of the documents that were created in the name of defendant bank the earlier Manager and friends said to have withdrawn the amount and thereby, the defendant to be unconnected to the said loan. There has been crime No.16/2021 at RMC Yard Police Station against Shivalingaiah of JMC Fertilisers for misappropriating the money. The complaint was filed to the higher authorities about misappropriation of the amount, yet no action is taken.

5. The defendant was born on 27.07.2001, but the age of the defendant in the document has been shown as 35 years in the document viz., bank account. The PCR No.162/2022 has

been filed before III Addl. Civil Judge and JMFC Court against the bank Manager and the concerned, by Shivalingaiah of JMC Fertilizers sister of Yashoda has also filed PCR No.162/2022 against the bank and till date no action has been taken. Said earlier Manager and the friends are said to have created the documents and used the loan amount for themselves. For example an amount of Rs.1,80,00,000/- has been transferred to the bank account of Khushi Enterprises by JMC Traders. The matter is pending for enquiry. There is no loan obtained by the defendant and the loan account has been created. During that time, the defendant was minor and there is no connection between the loan and the defendant court fee is said to be not properly furnished and therefore has sought for dismissal of the suit with costs of ₹50,000/-.

6. My predecessor-in-office had framed the following issues :-

### I S S U E S

1. Whether the plaintiff proves that the defendant has availed Loan of ₹5,00,000/- on 18.06.2020 for the purpose of Maize business agreeing to repay the same with interest as per the terms and conditions of the loan documents executed by the defendant ?

2. Whether the defendant proves that the partners of K.C. Traders and GMC Fertilizers their friends former Managers of the plaintiff bank and its staff by colluding each other obtained the cheques of the said firms and misused the same by forging the signatures and create the false loan documents ?
3. Whether the defendant further proves that the former Managers of plaintiff bank namely Kishnanaik, Bhaskar, Shivakumar and other were created false loan document and used the said amount o their persona use ?
4. Whether the defendant further proves that he was minor at the time of alleged incident and he ha not obtained any loan from the plaintiff bank ?
5. Whether the defendant further proves that the suit not properly valued and not paid the proper court fee ?
6. Whether the plaintiff is entitled for the suit claim?
7. What order or decree?

7. In order to prove its case, the Chief Manager of the plaintiff bank has been examined as PW.1 got marked Ex.P.1 to P.11. There is no deference evidence adduced in the present case.

8. Heard arguments.

9. The findings on the above issues are as under :-

Issue No.1: In the Affi rmative,

Issue No.2: In the Negative,

Issue No.3: In the Negative,

Issue No.4: In the Negative,

Issue No.5: In the Negative,

Issue No.6: In the Affi rmative,

Issue No.5: As per final order  
for the following :-

### **REASONS.**

10. **Issue No.1** : - The Chief Manager of the plaintiff – bank in the affidavit filed for examination in chief has reiterated in averments of the plaint. As per his evidence, the defendant had availed financial assistance from the plaintiff-bank for the purpose of maize business to the tune of Rs.5,00,000/- agreeing to repay the loan with interest at 11.55% compounded monthly on 18.06.2020. The name of the defendant appears in this application that is printed as application form for loans to micro, Small and Medium Enterprises (MSES). The rate of interest has been 10.90%

and the sanction memorandum also dated 18.06.2020 Ex.P.2. The cash credit agreement dated 18.06.2020 is Ex.P.3. The rate of interest is stated that the borrower to pay the interest at 4% about the marginal cost of the funds. The request for the OD Ex.P.4 with signature Ex.P.4(a) of the defendants. As per the contention of the plaintiff bank the defendant has also executed pronote at Ex.P.5 dated 18.06.2020 and the signature has been identified as Ex.P.5(a), wherein the rate of interest is 10.90% about the ongoing Marginal Cost Lending Rate. Letter of Proprietorship to have been signed by the defendant that signature has been marked as Ex.P.6 and 6(a). After availing the loan the defendant had not repaid the loan as promised and in terms of the documents. Hence, the plaintiff bank has issued legal notice on 18.03.2022. The copy of that notice is Ex.P.3 with postal receipt and acknowledgement as Ex.P.8 and 9. This legal notice has been issued within the period of 3 years from the date of sanction of loan on 18.06.2020. The legal notice issued to the defendant has been returned with endorsement on the postal cover as 'addressee cannot be located' and hence returned and when the postal cover was opened, the legal notice found in that cover has been marked as Ex.P.10(a). Pass book account is Ex.P.11 and the amount due as on 31.01.2023 is ₹7,42,364.65. The suit claim amount is ₹7,48,185 as on the date of filing of the suit on 01.03.2023. The present suit has been filed within 3 years from 18.06.2020 i.e., within the period of limitation. In the course of the oral evidence.

During the course of cross-examination PW.1 has stated that authorisation letter submitted to bank not found in the documents marked on behalf of the bank as Ex.P.1 to 11 namely in order to sanction the letter to the customers the trade licence, KYC documents, loan application, unit verification would be inspected and then loan sanctioned. It is further elicited that the loan was sanctioned to the defendant on 18.06.2020 and at that time, the age of the defendant was 19 years. The defendant is said be the Supervisor at JMC and KC Traders and has stated as follows :

"ಪ್ರತಿವಾದಿಯು ಮೇಲ್ವಿಚಾರಕ ಆಗಿ GMC and KC Traders ನಲ್ಲಿ ಕೆಲಸ ಮಾಡುತ್ತಿದ್ದ ಬಗ್ಗೆ ನನಗೆ ಮಾಹಿತಿ ಇದೆ. ಭಾಸ್ಕರ್, ಕೃಷ್ಣನಾಯ್ಕ ಮತ್ತು ಶಿವುಕುಮಾರವರು ಸ್ನೇಹಿತರು ಅಂದರೆ ನನಗೆ ಗೊತ್ತಿಲ್ಲ. ಪ್ರತಿವಾದಿಯು ನಮ್ಮ ಮೇಲ್ವಿಚಾರಕರಾಗಿ ಆಗಾಗ ಬರುತ್ತಿದ್ದರು ಅಂದರೆ ಆ ಸಮಯದಲ್ಲಿ ಬಂದಿರಬಹುದು. ಆ ಸಮಯದಲ್ಲಿ ಪ್ರತಿವಾದಿಯ ತಮ್ಮ ಕೆ.ಸಿ ಟ್ರೇಡರ್ಸ್ ಗೆ ಸಂಬಂಧಿಸಿದ ಚೆಕ್ ಗಳಿಗೆ ಸಹಿ ಮಾಡುತ್ತಿದ್ದರು ಅಂದರೆ ನನಗೆ ಗೊತ್ತಿಲ್ಲ. ಅದು firm account ಗೆ ಸಾಲ ಸಂದಾಯ ವಾಗಿರುವುದರಿಂದ ಬೇರೆ ಬೇರೆ ಖಾತೆಗಳಿಗೆ ಹಣ ಹೋಗಿರಬಹುದು. ಈ ಸಾಲವನ್ನು ಪ್ರತಿವಾದಿಯು ತಮ್ಮ ವೈಯಕ್ತಿಕ ಹೆಸರಿನಲ್ಲಿ ವ್ಯಾಪಾರಕ್ಕಾಗಿ ತೆಗೆದುಕೊಂಡಿದ್ದಾರೆ."

Further, PW.1 has stated that the application for the loan was submitted by the defendant on 18.06.2020 and on the same day, loan has been sanctioned. In this regard plaintiff – bank has produced Sanction Memorandum at Ex.P.2. PW.1 was not the Manager at the time of sanction of loan to the defendant. On the

basis of the nature of transaction and its profit the account would be made as OD. There has been serious allegations that the then Manager of the bank along with friends has misused the loan rather misappropriated the amount and falsely created the documents thereby filed the above suit against the defendant. However, the fact remains that Ex.P.1 to 11 have not been contravened in any manner. Nothing has been elicited from PW.1 in his cross-examination, contradicting the contents of Ex.P.11. Such being the case, even the documents prevail upon the defendant.

11. The loan sanctioned by the plaintiff bank to the defendant is ₹5,00,000/- for the purpose of maize business. Therefore, the loan is pertaining to Mercantile documents in terms of Commercial Disputes Act under Section 12(1)(c) of the Commercial Disputes Act. The suit claim amount is not less than Rs.3,00,000/-. The date of sanction of loan is 18.06.2020. The above suit has been filed on 03.03.2023, within 3 years from the date of execution of Ex.P.2 Pronote is also dated 18.06.2020. Thereby, the suit is within the period of limitation of 3 years from the date of sanction of the loan. As per the statement of accounts/pass sheet details for the period from 01.01.2020 to 15.02.2023, has been marked at Ex.P.11, and the portion marked as Ex.P.11(a) specifically states that the amount due as on 01.02.2023 is ₹7,42,364/-. Therefore, the plaintiff has been able to prove that the defendant has availed Loan of ₹5,00,000/- on 18.06.2020 for the purpose of Maize business, agreeing to repay the same with interest as per the

terms and conditions of the loan, by executing required documents. Hence, point No.1 is answered in the Affirmative.

**12. Issue No.2 to 4:** The defendant has taken contention that the firm Managers, friends, partners etc along with staff by colluding with each other had obtained cheques of the firm and misused by forging the signatures and creating false loan documents. Further, the defendant was minor at the time of alleged loan transaction. Therefore, these points are discussed and answered together in order to avoid repetition.

In his oral evidence, PW.1 has vehemently stated that his age was 19 years, but the loan is in the nature of Micro, Small and Medium enterprises and the same age is mentioned in the Ex.P.1. Misappropriation of the loan or forging of the signature as contended in the written statement is not forthcoming in any manner in the evidence placed before the court. Moreover, the defendant has not adduced any kind of evidence before the court. The date of loan is 18.06.2020 and Pass Sheet in Ex.P.11 is pertaining to the account No.106261000021 for the period 1<sup>st</sup> January 2021, 15<sup>th</sup> February 2023. These entries have not been challenged by the defendant in the present case. No documents have been produced to show that at the time of sanction of loan, the defendant to be a minor. Therefore, in the absence of any other evidence, the evidence placed before the court by the plaintiff prevails. Mere contention of the defendant about the misappropriation and forgery of the signature on the documents in

the written statement in the absence of any kind of oral evidence does not prove the contention of the defendant. No doubt, there is suggestion about the PCR cases pending but nothing has been elicited so as to discard the case of the plaintiff. Such being the case, issue No.2 to 4 are answered in the negative.

**13. Issue No.5 :** The defendant has merely contended in the written statement that improper court fee has been furnished for the purpose of filing of the suit. At this stage, it is to be noted that in Ex.P.11 there is entry about the court fee of ₹44,455/- furnished for filing of the suit on 20.12.2023. Said valuation + ₹3,815/- calculated under Section 21 of the Karnataka Court Fees and suit Valuation Act for the suit claim being ₹7,48,185/-. Therefore, the valuation of court fee is in accordance with the provisions of Section 21 of said Act. No other documents are produced to show the valuation of court fee as improper. Hence, this issue is answered in the Negative.

**14. Issue No.6 :** The plaintiff has placed before the court the documents identified at Ex.P.1 to 11 to show that the defendant inspite of availing loan of Rs.5,00,000/- has failed to repay the loan amount and thereby is due to pay the suit claim amount of ₹7,48,185/-. The oral evidence and Ex.P.1 to 11 have remained unchallenged by the defendant in any manner. Such being the case, the plaintiff bank has been able to prove its case and hence, the plaintiff is entitled to claim the suit claim amount. Hence, this issue is answered in the Affirmative.

15. **Issue No.7** : In view of the reasons on Points No.1 to 6, I proceed to pass the following :

ORDER

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

The plaintiff-bank is entitled for recovery of suit claim of ₹.7,48,185 (Rupees Seven Lakhs Forty Eight Thousand One Hundred and Eighty Five only) from the defendant with current and future interest at the rate of 12.9% p.a. compounded monthly, from the date of suit till the date of realization.

Draw decree accordingly.

(Dictated to the Stenographer, computerised by her, transcript corrected, revised, signed and then pronounced in the Open Court dated this the 23<sup>rd</sup> day of April, 2026)

**( VELA.D.K )**

Prl., District & Sessions Judge,  
Davangere.

A N N E X U R E

LIST OF WITNESSES EXAMINED FOR PLAINTIFF:-

PW-1: Netravati K W/o Venkatesh T

## LIST OF DOCUMENTS MARKED FOR PLAINTIFF:-

- Ex.P1 : Loan Application,
- Ex.P1(a) : Signature of defendant
- Ex.P.2 : Sanction Letter
- Ex.P.2(a) : Signature of defendant
- Ex.P.3 : Cash Credit Agreement
- Ex.P.3(a) : Signature of defendant
- Ex.P.4 : Request for over draft facilities
- Ex.P.4(a) : Signature of the defendant
- Ex.P.5 : Pronote
- Ex.P.5(a) : Signature of the defendant
- Ex.P.6 : Letter of proprietorship
- Ex.P.6(a) : Signature of defendant
- Ex.P.7 : Legal Notice
- Ex.P.8 : Two postal receipts
- Ex.P.9 : Postal Acknowledgement
- Ex.P.10 : Postal return unserved cover
- Ex.P.11 : Certified copy of the account extract
- Ex.P.11(a) : Relevant entry  
: Non starter report filed.

## LIST OF WITNESSES EXAMINED FOR DEFENDANT -

-Nil-

## LIST OF DOCUMENTS MARKED FOR DEFENDANT -

-Nil -

**Prl., District & Sessions Judge,  
Davangere.**