PW-1 present, duly sworn on 30.08.2021

Cross Examination of PW1: By Smt. M. N., Advocate, for Defendants .

Since 09.01.2019 I am working as Chief Manager of Plaintiff Branch. It is true to suggest that, I was not working at the bank at the time of grant of loan. I am deposing evidence on the basis of documents. It is true to suggest that, Ex.P.1 to 11 are in the form of printed formats. It is false to suggest that, Defendants are not executed loan documents. Loan was granted on loan application. It is true to suggest that, loan application was not produced before the Court. The loan was granted on 11.12.2014. Request for overdraft was given in the year 2017. On the basis of the business requirement the defendant has submitted the overdraft request. On the basis the transport business transaction and requirement of the defendants OD was granted. Based on the past business transactions and business experience bank is used to grant the OD facility. Now I am not able to say about other loan transactions without looking into the documents. It is true to suggest that, as per regular practice payment slips are raised at the time of making payment. It is true to suggest that, when the EMI was paid through cash same is depicted in the account statements as cash. If the amount is withdrawn by the customer himself then it is depicted under self withdrawn. When the amount is paid by Cash it never shown as Cash self. It is true to suggest that, as per Ex.P.5, the transaction dated 11.10.2017 is shown as Cash self. It is true to suggest that, as per Ex.P.12, the transaction dated 11.10.2017 is shown as Cash self. The payments slips in respect of the aforesaid transactions may be available in the loan account of the case file. I can produce the same before the Court. It is false to suggest that, the Defendant has not paid any amount towards bank on 11.10.2017 as per Ex.P.5 and P.12. It is false to suggest that, the said payments are made by the bank itself in order to avoid claim is barred by limitation. Ex.P.21 is the letter given by the Defendant. Defendant has issued two letters to the bank. Now the document shown to me is the another letter issued by the Defendant. On the admission of document of the witness it is marked as Ex.D.1. Ex.P.21 and Ex.D.1 are given by the Defendant on the same day. Now the document shown to me is the another letter given by the Defendant to the bank. On the admission is it marked as Ex.D.2. It is false to suggest that, Ex.P.15 and P.21 are not executed by the Defendant. Before issuing Ex.P.13 Legal notice bank has issued recall notice. The said recall notice are not forthcoming in the exhibits, it might be with the bank. It is false to suggest that, bank has not issued any demand notice. It is false to suggest that, since the bank as not issued any demand notice defendant has not appeared before the Bank and executed any demand notice. It is false to suggest that, signatures found on Ex.P.15 and P.21 are not belongs to the Defendant. At the instructions of the Bank defendant has prepared Ex.P.15 and P.21. It is false to suggest that, signatures with seal of the Defendant obtained on the blank paper at the time of grant of loan are misused and created Ex.P.15 and P.21. It is true to suggest that,while receiving any document from the customer the receiving officials of the bank is used to put his signature with bank seal and also mention the date of receival. It is true to suggest that, in Ex.P.15 and P.21, no seal and signature of the Bank officials is not forthcoming and it is also not mentioned the date of receival. I can produce the originals of Ex.D1 and D.2. It is true to suggest that, as per Ex.D1 and D.2 there is no reference regarding date of submission of documents and so also about receiving of the same. It is true to suggest that, even on Ex.D1 and D.2 also no seal and signature of the Bank officials is not forthcoming. It is true to suggest that, except in Ex.D.1 and D.2 in all other documents the defendant has not put date near his signatures. It is false to suggest that, the signatures obtained on the bank papers are created as per Ex.D.1 and D.2 by putting dates in order to avoid claim of the bank is barred by limitations. It is false to suggest that, the Defendant never visited the bank either on 11.10.2017 or any other subsequent date and executed any documents in favour of the Bank. It is false to suggest that, Ex.P.5 and P.12 the bank officials have themselves paid Rs.50/- on 11.10.2017 in order to extend the limitation period.

As on 11.10.2017 as per Ex.P.5 and Ex.P.12 the outstanding balances are Rs.4,13,463/- and Rs.2,17,577/-. The loan accounts were declared as NPA on 15.04.2016. I have to verify about whether the bank had issued any demand notice to the Defendant either before declaration of NPA or after declared the account as NPA. It is true to suggest that, at para 5 of my Truth affidavit filed along with plaint. I have stated that, bank has produced all the documents which are in the possession of the bank and no other documents are in the custody or possession of the bank. On admission the said truth affidavit is marked as Ex.D.3. It is true to suggest that, the Defendant has filed application before the Court and court has issued direction to the bank for production of original letters dated 11.10.2017 for inspection to the defendant counsel, but said two documents are not produced for inspection. To the suggestion that, the Bank has produced Ex.P.15 and Ex.D.2 and not produced Ex.P.21 and Ex.D.1,witness deposed that, he has produced two documents out of four documents.

It is false to suggest that, Ex.P.13 notice was not served on Defendant. To the suggestion that, two Postal acknowledgments produced along with Ex.P.13 signature of the defendant is not forthcoming, witness deposed that, it might be received in the office of the Defendant. It is false to suggest that, the defendant has appeared before the DLSA after receiving the notice under pre-mediation-litigation. It is false to suggest that, suit is barred by limitations and thereby defendant is not liable pay suit claim. No guarantor was obtained from the Defendant. The hypothecated vehicle was not seized. It is false to suggest that, the bank has not made any effort to seize the hypothecated vehicle. Now the defendant has left the address and he is not available in the known address. To the suggestion that, defendant has not left the address and the notice sent by DLSA and suit summons sent by the court to the known address are very much served on the defendant, witness deposed that, at the time of visit he is not available. It is false to suggest that, I am deposing falsely in support of my false case on the basis of fabricated and created documents.

Re-Examination: NIL.

(Typed to my dictation in the open court.)

R.O.I. & A.C.,

I Addl. District & Sessions Judge,
Mangaluru, D.K.