KADK010003692026

Presented on : 27-01-2026
Registered on : 02-02-2026
Decided on : 04-06-2026

IN THE COURT OF I ADDITIONAL DISTRICT JUDGE & COMMERCIAL COURT, D.K., MANGALURU

Present

Sri.Vinay Devaraj, B.Com., LL.M., ACS.
I Addl. District & Sessions Judge,
D.K., Mangaluru.

Dated this, the 4th day of June, 2026

Com. O.S./43/2026

Plaintiff :

Canara Bank,
Constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970. Having its head office
at J.C. Road, Bangalore,
Inter alia Branch at Hampankatta-I
Gokul Market, Mangaluru
Represented by its Senior Manager
and Authorized officer

(By Sri.Ravichandra P.M., Advocate)

/***Versus***/

Defendants:

1. Bake Deck
Prop: Mr.Sudhith Shetty
Shop/at: Besant Multi Purpose Complex
M.G. Road, Kodialbail,
Mangaluru D.K.575003

2 Mr.Sudhith Shetty
S/o Suresh Shetty
Aged about 30 years
R/at 5-19/1, Kudarbettu, Padil
Alake, Bantwal D.K. 574235

Exparte

<u>JUDGMENT</u>

This suit is filed by the plaintiff Bank as against the defendants for recovery of Rs.4,15,898/- along with interest and costs of the suit.

2. <u>In brief, the contents of the plaint avertments may be stated as under</u>:

i. The Defendant No.2 availed two loans under PMMY term loan and OD loans for the purpose of Kitchen equipment business, a sum of Rs.3,10,000/- in A/c No.170000740631 on 7.9.2021, a sum of Rs. 50,000/- in A/c No.125001167135 on 27.2.2023 and in total Rs.3,60,000/- from the plaintiff bank with an undertaking to repay the same on demand, together with interest compounded periodically. The defendants have executed the loan agreement and other loan documents and the plaintiff bank has sanctioned the loan at the rate of interest at 10% and 11.50%p.a. The defendants have agreed to repay the monthly installments of Rs.5,411/- plus interest of 82 monthly installments in term loan account. The defendants have also agreed that in case of breach of the covenants of the loan agreement they are liable to pay additional interest of 2%p.a. The present rate of interest is 12.10%p.a. and 13.50%p.a. respectively. The rate of interest is raising or falling with the MCLR rate interest as fixed by the Bank from time to time. The defendant no.2 is the proprietor of defendant No.1.

ii. The defendant after obtaining loan facility is highly irregular in repayment of loan installments as per the terms of undertaking. Hence the loan account of the defendant has classified as Non Performing Account on 6.12.2023. As per the statement of accounts pertaining to the loan regularly maintained by the plaintiff bank in due course of its business, a total sum of Rs.3,45,577/- and Rs.68,821/- in both accounts, totally Rs.4,14,398/- was found due and payable with interest calculated as on 23.11.2025 and 309.11.2025.

iii. Inspite of several reminders/notices by the plaintiff bank, the defendant has not regularized the loan account of the defendant. The plaintiff got issued a lawyer’s notice dated 16.3.2025 through RPAD to the correct addresses of the defendant. The notice sent to the defendant No.1/shop returned as ‘addressee left’ and notice sent to the residential address is returned as unclaimed. Hence it is clear and obvious that the defendant is not interested to clear the loan dues to the plaintiff. Therefore, the plaintiff bank has no other efficacious remedy other than to approach this court for recovery of loan dues.

iv. The plaintiff referred the matter for mediation as per PIM 110/2025. Even though the notice of the mediation is served upon the defendants remained absent. Hence the case was closed as non starter as per endorsement dated 5.8.2025 was issued. Hence this suit

3. After institution of the suit, the summons issued was duly served to defendant No.1 on 13.2.2026 and defendant No.2 on 23.3.2026. Inspite of service, the defendants remained absent and thus were placed exparte.

4. In order to establish its case, the plaintiff examined its Manager as PW.1 and got marked Ex.P1 to Ex.P17 documents. The defendant neither adduced any evidence nor cross examined PW.1.

5. I have heard the learned counsel for the plaintiff bank and carefully perused the materials available on record.

6. The following points would arise for my consideration :

1. Whether the suit of the plaintiff is within limitation?

2. Whether the plaintiff–bank is entitled for recovery of outstanding loan amount of Rs.4,15,898/- along with future interest and costs as prayed for?

3. What order ?

7. On the basis of the available materials on record, my findings on the above points are here under:

Point 1: In the Affirmative

Point 2: Partly in the Affirmative

Point 3: As per the final order for the following

REASONS

8. **Point No.1**:- In this case, as per Ex.P3/sanction memorandum dated 7.9.2021 the defendant availed term loan of Rs. 3,10,000/-. The suit is instituted on 27.1.2026. Evidently, the suit is filed after 4 years, 4 months and 20 days. Article 37 of the Limitation Act provides three years from the date of default in payment of installments.

9. The account of the defendant is classified as NPA on 6.12.2023. Ex.P11 is the letter of renewal dated 27.2.2023. Ex.P12 is the revival letter dated 27.2.2023. Hence, when the limitation of 03 years is reckoned from 28.2.2023, the suit is filed within limitation. Hence, **point No.1 is held in Affirmative**.

10. **Point No. 2:-** In the instant case, plaintiff–bank represented by its Manager has approached this Court seeking realization of outstanding loan amount of Rs.4,15,898/- along with interest at 12.10%p.a. and 13.50%p.a. compounded monthly rest and 2% penalty p.a. from 24.11.2025 and 1.12.2025.

11. In order to establish the claim put forth by the plaintiff-bank, the Senior Manager of plaintiff bank is examined as PW.1 by filing an affidavit in lieu of examination in chief by reiterating the

plaint averments in toto and also relied upon the documentary evidence marked at Ex.P1 to Ex.P17.

Ex.P1 is the letter of authority, Ex.P2 is the loan application, Ex.P3 is the sanction letter, Ex.P4 is the agreement cum deed of hypothecation Ex.P5 is the letter of undertaking, Ex.P6 is the loan application in A/c No.125001167135, Ex.P7 is the sanction communication, Ex.P8 is the bill issued by Likhith Electro Power Service, Ex.P9 is the Tax invoice issued by Olive Steel Solutions, Ex.P10 is the Tax invoice issued by Udaya Kitchenext, Ex.P11 is the letter of renewal, Ex.P12 is the letter of Revival, Ex.P13 is the lawyers notice along with postal receipt, Ex.P14 is the returned envelope 2 in Nos, Ex.P15 is the statement of account in A/c No.170000740631, Ex.P16 is the statement of account in A/c No.125001167135 with certificate and Ex.P17 is the Pre Institution Mediation Report.

12. When the plaint averments are appreciated in the light of the oral testimony of P.W.1 and duly marked documents at Ex.P1 to Ex.P17, it reflects that, the defendant had borrowed term loan facility of Rs. 3,10,000/- on 7.9.2021 and Rs. 50,000/- on 27.2.2023 from the plaintiff bank with an undertaking to repay the same on demand together with interest compounded periodically by executing the loan agreement and other necessary documents for his business. It further reflects from appreciation of contents of statement of defendant’s bank account maintained by the plaintiff-bank in the ordinary course of its business at Ex.P15 that there is an outstanding arrears of

Rs.3,45,577/- as on 23.11.2025 towards term loan and Rs. 68,821/- as on 30.11.2025 towards O.D. loan together with interest compounded periodically. The defendant has executed loan agreement and other documents relating to the above said loan. Ex.P15 & Ex.P16 provides for prima facie evidentiary value under Sec.2A of the Banker's Books of Evidence Act, as to genuineness of entries therein, and the said presumption remains unrebutted by the defendants. Thus, outstanding arrears of Rs.3,45,577/- as on 23.11.2025 towards term loan and Rs.68,821/- as on 30.11.2025 towards O.D.loan is proved by the plaintiff bank.

13. Documents marked at Ex.P1 to Ex.P17 discloses that, loan transaction between the plaintiff-bank and defendant is purely a commercial one.

14. Section 34 of C.P.C provides for awarding of interest by the Court. Section 34 of CPC has no application to interest prior to the institution of this suit. Section 34 CPC provides that Court may in the decree, order, interest at such rate as the Court deems reasonable to be paid on the principal sum adjudicated from the date of suit to the date of decree.

15. The interest awarded by the Court may conveniently be divided under 03 different heads:

> 1.Interest prior to filing of suit - Section 34 has no application to interest prior to the institution of the suit since it is a matter of substantiative law, it can be awarded only when there is an agreement

> express or implied between the parties or by way of damages.
>
> 2.Interest pendentilite i.e., from date of the suit to the date of decree - The award of interest from the date of suit, to the date of decree is at the discretion of the Court.
>
> 3.Interest from the date of decree till payment.

16. The award of interest from the date of decree to the date of payment is also at the discretion of the Court but not exceeding 6% p.a. However, the proviso as added by the amendment Act of 1976 empowers the Court to grant further interest at the existing rate 6% p.a. but not exceeding the contractual rate of interest and in the absence of contract to that effect at the rate on which money is or rent or advanced by nationalized banks in relation to commercial transactions provided that liability arises out of the commercial transaction.

17. In this case, as per Ex.P3/sanction memorandum there is a mention with regard to payment of interest at 10%p.a. and in Ex.P7 there is mention with regard to payment of interest at 11.50%p.a. Hence, this Court finds it appropriate to direct the defendants to pay Rs.3,45,577/- along with interest at 10%p.a. from 24.11.2025, till realization towards term loan and Rs.68,821/- along with interest at 11.50%p.a. from 1.12.2025 till realization towards O.D.loan Accordingly, **point No.2 is answered partly in the Affirmative.**

18. **Point No.3**:- In view of the above reasonings and findings on Point Nos.1 and 2, I proceed to pass the following:

<u>ORDER</u>

Suit of the plaintiff-bank is hereby decreed in part with future interest and costs.

Plaintiff-bank is entitled to recover the outstanding loan amount of **Rs.3,45,577/-** along with interest at 10%p.a. from 24.11.2025, till realization towards term loan and **Rs. 68,821/-** along with interest at 11.50%p.a. from 1.12.2025 till realization towards O.D.loan from the defendants, and costs of the suit.

Defendants are hereby directed to deposit the above sum within 30 days of this judgment, failing which, the plaintiff-bank shall be at liberty to recover the same as per Ex.P4 and in terms of decreetal command in accordance with law.

Office to draw the decree accordingly.

(Dictated to the Stenographer Grade-1 directly on computer, corrected, then signed and pronounced by me in the open court on this 4th day of June, 2026)

(Vinay.D)
I Additional District & Commercial Court Judge
D.K., MANGALURU.

ANNEXURE

Witnesses examined on behalf of Plaintiff Bank:

PW.1 Smt.Varsha V.Sugyamwar

List of documents marked on behalf of Plaintiff Bank:

Ex.P1 : Letter of authority,

Ex.P2 : Loan application,

Ex.P3 : Sanction memorandum,

Ex.P4 : Agreement cum deed of hypothecation

Ex.P5 : Letter of Undertaking

Ex.P6 : Loan application

Ex.P7 : Sanction communication

Ex.P8 : Bill issued by Likhith Electro power Service

Ex.P9: Tax invoice issued by Olive Steel Solutions

Ex.P10: Tax invoice issued by Udaya Kitchenext

Ex.P11: Letter of Renewal

Ex.P12: Letter of Revival

Ex.P13: Lawyer notice along with postal receipt,

Ex.P14: Returned Envelop 2 in Nos

Ex.P15: Statement of account in A/c No.170000740631

Ex.P16: Statement of account in A/c No.125001167135 with certificate

Ex.P17: Pre Institution mediation report.

Witnesses examined on behalf of Defendants:

NIL

List of document marked on behalf of Defendants:

NIL

(Vinay.D)
I Additional District & Commercial Court Judge
D.K., MANGALURU

VINAY DEVARAJ
Digitally signed by VINAY DEVARAJ
Date: 2026.06.08 10:38:30 +0530