KADK010038802025

Presented on : 14-08-2025
Registered on : 16-08-2025
Decided on : 07-07-2026

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

Present

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

Dated this, the 7th day of July, 2026

Com. O.S./231/2025

Plaintiff :

Union Bank of India
RBC Branch, Ground Floor,
Rama Bhavan Complex,
Kodialbail, Near Navabharath Circle,
Mangaluru – 575 003
Rep. by its Chief Manager
Sri. Chidananda V. C.

(By Sri. Abhishek K., Advocate)

/***Versus***/

Defendant:

Mr. Vidwath,
S/o Vimal Keerthi,
Proprietor – M/s Total Celebrations
D.No.15-472/2, Manjunath Towers,
Opp. City Hospital, Kadri, Mangaluru – 575 002.

(Exparte)

JUDGMENT

This suit is filed by the plaintiff Bank as against the defendant for recovery of Rs.5,52,848/- together with future interest at the rate of 12% p.a. from the date of suit till the date of realization and costs of the suit.

2. In brief, the contents of the plaint averments may be stated as under:

Defendant had availed three loans i.e. term loan of Rs.3,73,000/- on 30.10.2021 under loan A/c No.037726440000008/-, term loan of Rs.1,56,000/- on 27.01.2023 under loan A/c No.037726440000024 and Cash credit loan of Rs.2,25,000/- under loan A/c No.012925114000012 on 19.06.2023. The defendant was required to repay the term loans with installment of Rs.5,917/- with applicable interest and Rs.2,721/- with applicable interest within a period of 84 months respectively and also pay applicable interest in respect of cash credit loan by executing necessary loan documents.

After availing the aforesaid loans, the defendant failed to adhere to the terms and conditions of the loan and continuously defaulted in repayments from July 2024, even after repeated request and reminders. Hence, the loan account has been classified as NPA on 29.10.2024. Thereafter, the plaintiff got issued legal notice dated 30.10.2024 calling upon the defendant to pay the entire loan amount due, but, there was no response. The plaintiff has also approached DLSA, Mangaluru vide PIM No.12/2025, but, the defendant has failed to appear there also, hence, non starter report dated 12.03.2025 was issued. Therefore, the plaintiff bank has no other efficacious remedy other than to approach this court for recovery of loan due of Rs.5,52,848/- with future interest. Hence, this suit.

3. After institution of the suit, the suit summons was issued to the defendant, but was not served. Again the suit summons sent through RPAD was unserved with shara “addressee not known”. Thereafter, paper publication was issued against the defendant through "Hosa Digantha" Kannada Daily newspaper dated 04.12.2025 and 24.12.2025. Defendant remained absent. Hence, was placed exparte.

4. In order to establish its case, the plaintiff examined its Chief Manager as PW.1 and got marked Ex.P1 to Ex.P14 documents.

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

6. On 25.02.2026, the learned counsel for plaintiff filed memo stating that the loan availed by the defendant under loan A/c No.037726440000024 has been recovered and the plaintiff is not pressing the suit for recovery of due amount under the said loan account.

7. 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.2,83,832/- under loan A/c No.037726440000008 and Rs.2,29,528/- under loan A/c No.012925140000012 along with future interest and costs as prayed for?

3. What order ?

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

Point No.1: In the Affirmative

Point No.2: 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**:- As per Ex.P2/sanction advice dated 28.10.2021 the defendant had availed Term loan/Union Mudra loan of Rs.3,73,000/- and Overdraft mudra loan of Rs.2,25,000/-. The suit is instituted on 14.08.2025. Evidently, the suit is filed after 03 years 09 months 20 days. Article 37 of the Limitation Act provides three years from the date of default in payment of installments.

It is pertinent to note that the account of defendant is classified as NPA on 29.10.2024. An amount of Rs.3,500/- was transferred/deposited by the defendant's father on 23.8.2024 to A/C No.012925140000012 and an amount of Rs.3,000/- was transferred/deposited by the defendant on 21.9.2024 to the A/c No.037726440000008. Hence, when the limitation is reckoned from 24.8.2024 and 22.9.2024 respectively, the suit is filed in time. Accordingly point No.1 is held **in Affirmative**.

10. **<u>Point No.2:</u>**- In the instant case, plaintiff–bank represented by its Chief Manager has approached this Court seeking realization of outstanding loan amount of Rs.2,83,823/- under A/c No.03772644000008 and Rs.2,29,528/- under A/c No.012925140000012 along with future interest at 12% p.a. from the date of suit till the date of realization.

11. In order to establish the claim put forth by the plaintiff-bank, the Chief 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.P14.

Ex.P.1 is the Loan application dated 29.10.2021, Ex.P.2 is the Sanction advise, Ex.P.3 is the General lien letter, Ex.P.4 is the Demand Promissory letter with letter of continuity, Ex.P.5 is the Composite Hypothecation Deed, Ex.P.6 & 7 are the letter of undertaking, Ex.P.8 is the Interest Agreement, Ex.P.9 is the Term loan account statement, Ex.P.10 is the Overdraft loan account statement, Ex.P11 is the certificate U/Sec.63 BNS, Ex.P12 is the office copy of legal notice dated 30.10.2024, Ex.P13 is the returned envelop with notice and Ex.P14 is the Non starter report issued by DLSA, D.K.

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.P14, it reflects that, the defendant had borrowed term loan of

Rs.3,73,000/- and overdraft loan of Rs.2,25,000/- on 28.10.2021 from the plaintiff bank with an undertaking to repay the same together with interest by executing necessary loan documents. It further reflects from appreciation of contents of statement of defendants' bank account maintained by the plaintiff-bank in the ordinary course of its business at Ex.P9 & P10 that there is an outstanding arrears of Rs.2,83,832/- towards loan A/c No.037726440000008 and Rs.2,29,528/- towards A/c No.012925140000012. Ex.P9 & P10 provides for prima facie evidentiary value under Sec.2(8), S. 4 r/w. S.2A of the Banker's Books of Evidence Act, as to genuineness of entries therein, and the said presumption remains unrebutted by the defendant. Thus, the above said outstanding arrears towards term loan and overdraft loan is proved by the plaintiff bank.

13. Documents marked at Ex.P1 to Ex.P14 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.P5/Hypothecation agreement, there is a mention with regard to payment of interest at 8.55%p.a. Hence, this Court finds it appropriate to direct the defendants to pay **Rs.2,83,832/-** along with interest at 8.55% p.a. towards loan A/c No.037726440000008 from 30.10.2024 till realization and **Rs.2,29,528/-** along with interest at 8.55%p.a. towards A/c No.012925140000012 from 30.10.2024 till realization. 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:

ORDER

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.2,83,832/-** along with interest at 8.55% p.a. towards loan A/c No.037726440000008 from 30.10.2024 till realization and **Rs.2,29,528/-** along with interest at 8.55%p.a. towards A/c No.012925140000012 from 30.10.2024 till realization and costs of the suit.

Defendant is 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.P5 and in terms of decreetal command in accordance with law.

Office to draw the decree accordingly.

(Dictated to the Stenographer Grade-III directly on computer, corrected, then signed and pronounced by me in the open court on this **7th day of July, 2026**)

(Vinay.D)
C/c of IV Addl. District & Commercial Court Judge
D.K., MANGALURU.

ANNEXURE

Witnesses examined on behalf of Plaintiff Bank:

PW.1 Chidananda V. C.

List of documents marked on behalf of Plaintiff Bank:

Ex.P.1 : Loan application dated 29.10.2021

Ex.P.2 : Sanction advise dated 28.10.2021

Ex.P.3 : Letter of General lien dated 29.10.2021

Ex.P.4 : Demand Promissory Note with Letter of Continuity

Ex.P.5 : Composite Hypothecation Deed dated 29.10.2021

Ex.P.6 : Letter of Undertaking dated 29.10.2021

Ex.P.7 : Letter of Undertaking dated 29.10.2021

Ex.P.8 : Interest agreement dated 29.10.2021

Ex.P.9 : Statement of Account – Term loan

Ex.P.10 : Statement of Account – Overdraft loan

Ex.P.11 : Certificate U/Sec.63 of BNS

Ex.P.12 : Office copy of legal notice dated 30.10.2024

Ex.P.13 : Returned envelop

Ex.P.14 : Non Starter report issued by DLSA, D.K.

Witnesses examined on behalf of Defendant:

NIL

List of document marked on behalf of Defendant:

NIL

(Vinay.D)
C/c of IV Addl. District & Commercial Court Judge
D.K., MANGALURU.

VINAY DEVARAJ

Digitally signed by VINAY DEVARAJ
Date: 2026.07.25 16:10:03 +0530