IN THE COURT OF MS. NISHA SAXENA: DISTRICT JUDGE (COMMERCIAL COURT)-04,CENTRAL, TIS HAZARI COURTS, DELHI

CS (Comm.) No. 1448 OF 2021

ICICI BANK LTD.
HAVING ITS REGISTERED OFFICE AT:-
ICICI BANK TOWER, NEAR CHAKLI CIRCLE,
OLD PADRA ROAD, VADODARA 390007,
GUJARAT, INDIA

HAVING ITS BRANCH OFFICE AT:
E-1/3 JHANDEWALAN EXTENTION,
DISTRICT CENTRE, JHANDEWALAN,
NEW DELHI-110055 ....PLAINTIFF

Versus

MOHD. YAQOOB
S/O MR. MOHD. SABEER
R/O 375/6, STREET NO.6,
NEW MUSTAFABAD,
KARAWAL NAGAR,
NEAR MOHAMMDI MASJID,
DELHI-110094

....DEFENDANT

Date of filing of the suit	**: 17.04.2021**
Date of reserving judgement	**: 05.07.2022**
Date of judgement	**: 06.07.2022**

<u>Judgement</u>

1. The present suit has been filed by the plaintiff against the defendant for recovery of Rs.8,42,030.99 (Rupees eight lacs forty two thousand thirty and paisa ninety nine only) along with interest.

2. As disclosed in the plaint, the plaintiff bank is a body incorporated under the Companies act, 1956. (hereinafter referred to as "Plaintiff Bank"). The defendant approached the plaintiff bank for the grant of a loan under its Car Loan Scheme for purchase of vehicle. The plaintiff bank granted loan facility to the defendant for purchase of a vehicle namely "FORD ECOSPORT/1.5 TREND D" having Registration No. DL-10CK-8884" under the loan cum hypothecation scheme of plaintiff bank. The plaintiff bank sanctioned the loan and disbursed an amount of Rs.8,12,200/- on 03.05.2018 to the defendant under the loan account no.LADEL00037331339 as per request by the defendant. The defendant also approached the plaintiff bank for sanction of Top Up Loan of Rs.2,25,000/- against the security of the vehicle namely "FORD ECOSPORT/1.5 TREND D" having Registration No. DL-10CK-8884" towards the loan account no.SPDEL00039201623.

3. The defendant agreed to repay the loan amount of Rs.8,12,200/- with interest @ 9% in 67 equated monthly installments and also agreed to repay the Top up Loan amount of Rs.2,25,000/- with interest @ 14.10% in 39 equated monthly installments.

4. From the loan amount a vehicle namely "FORD ECOSPORT/1.5 TREND D" having Registration No. DL-10CK-8884" was purchased by the defendant which was hypothecated in favour of the plaintiff bank in terms of agreement as a security towards the loan advanced by the plaintiff.

5. It is alleged that after receipt of the loan the defendant failed to adhere to the financial discipline of the repayment of the loan. Despite repeated reminders of the plaintiff bank to the defendant, defendant failed to honor her commitments. Finally, the plaintiff bank issued a legal demand cum loan recall notices dated 03.02.2021 and 11.02.2021 on the defendant. Despite the issuance of the notice, the defendant neither cared to repay the loan nor replied to the said notice.

6. According to the plaintiff on the date of the filing of the suit there was an amount of Rs.8,42,030.99 (Rupees eight lacs forty two thousand thirty and paisa ninety nine only) due against the defendant.

7. After filing of the suit, summons for settlement of issues were issued to the defendant. Defendant was served through whatsapp on 27.08.2021 and through speed post on 14.09.2021 Despite being served, defendant neither appeared before the court nor filed written statement. The defendant was accordingly proceeded ex-parte vide order dated 25.02.2022.

8. Plaintiff led ex-parte evidence. On behalf of the plaintiff bank PW-1 Mr. Anuj Jain, AR of the plaintiff bank filed his affidavit Ex.PW-1/A and relied upon the documents Ex.PW-1/1 to PW-1/8 and Mark X.

9. I have heard Ld. Counsel Ms. Barkha Sharma for the plaintiff and gone through the entire record.

10. PW-1 was duly authorized and empowered to pursue the legal proceedings on behalf of the plaintiff bank against the defendant. The power of attorney in this regard is Ex.PW-1/1. The defendant approached the plaintiff for grant of vehicle loan The plaintiff bank granted loan facility to the defendant for purchase of a vehicle namely “FORD ECOSPORT/1.5 TREND D” having Registration No. DL-10CK-8884” under the loan cum hypothecation scheme of plaintiff bank. The plaintiff bank sanctioned the loan and disbursed an amount of Rs.8,12,200/- to the defendant under the loan account no.LADEL00037331339 and also sanctioned of Top Up Loan of Rs.2,25,000/- against the security of the vehicle namely "FORD ECOSPORT/1.5 TREND D" having Registration No. DL-10CK-8884" towards the loan account no.SPDEL00039201623.

11. The defendant executed the credit facility application forms Ex.PW-1/2 and Ex.PW-1/2A, deed of hypothecation Ex.PW1/3, and irrevocable power of attorney Ex.PW-1/4 . The loan was subject to the terms and conditions agreed by the defendant in accordance with the documents executed by them.

12. Ex.PW-1/5 is the office copy of legal notice and Mark X is its postal receipt. Ex.PW-1/6 and Ex.PW-1/6A are the certified copy of statement of accounts. Ex.PW-1/7 is the certificate under sec.2A of Bankers Book of Evidence Act and Ex.PW1/8 is the certificate u/s 65 B of Evidence Act.

13. Witness PW-1 stated that the defendant has closed Loan Account No. LADEL00037331339. The defendant is liable to pay an outstanding/remaining amount of Rs.1,83,793/- in loan account no. SPDEL00039201623 to the plaintiff bank after deduction of prepayment charges along with interest.

14. The evidence led by the plaintiff has gone unrebutted, unchallenged and unrefuted. The testimony of PW-1 appears to be cogent, convincing and truthful. It is based upon the documentary evidence which were executed between the parties. There is no ground for me to disbelieve the same.

15. In view of the evidence adduced on record, I decree the suit in favour of the plaintiff and against the defendant, directing the defendant to pay an amount of Rs.1,83,793/- (Rupees one lac eighty three thousand seven hundred and ninety three only) along with interest @ 14% per annum from the date of filing of suit till realization. Suit accordingly stands decreed in favour of the plaintiff and against the defendant with cost. Decree sheet be prepared accordingly. File be consigned to Record Room.

(NISHA SAXENA)
District Judge(Commercial Court)-04
Central/Delhi

Announced in open court
on 06.07.2022
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