

MHCC040011332019



Presented on : 06-02-2019
Registered on : 08-02-2019
Decided on : 05-04-2023
Duration : 4yrs, 1ms, 27days

Exh. 21

**IN THE CITY CIVIL COURT AT DINDOSHI
(BORIVALI DIVISION), GOREGAON, MUMBAI**

SUMMARY SUIT NO. 84 OF 2019

ICICI Bank Limited,
Banking Company incorporated
Under the Companies Act, 1956
and licensed as a bank under the
Banking Regulation Act, 1949 and
having its registered office at
ICICI Bank Tower, Near Chakli Circle,
Old Padra Road, Vadodara- 390 007,
Gujarat and having
Corporate office at ICICI Bank Towers,
Bandra-Kurla Complex, Bandra (E),
Mumbai 400 051 through its
Power of Attorney Holder
Ms. Shilpa Vasant Nikam D/o. Mr. Vasant Nikam
The Debt Manager, Age 34 years

.....Plaintiff

Vs.

Uday Singh Dittabhai Gohil,
Aged 53 years, Occupation- Salaried,
Residing at:- T. No. 8299, FTR,
Gr- 1 pf PCO, Pl Railway Quarter,
Dahisar East, Thane- 400068.

.....Defendant

Appearances-

Adv. Manisha Rane, the Ld. Counsel for plaintiff.

Defendant proceeded ex-parte.

Coram : Her Honour Judge,

Smt. V.D. Ingle

(C.R.No.02)

Date : 5th April, 2023

ORAL JUDGMENT

1. This is the suit filed for recovery of an amount of **Rs.2,33,948/-** (Rupees Two Lacs Thirty Three Thousand Nine Hundred Forty Eight Only) along with interest @ 24% p.a. from the date of filing of the suit till realisation of entire amount.

2. Briefly stated, plaintiff's case is as under:-

2.1 Plaintiff is a Public Limited Company under the provisions of the Companies Act 1956 and a banking company under the provisions of the Banking Regulation Act, 1949, also a scheduled Bank and carrying on business of banking. And the present suit is filed through its Power of Attorney holder Ms. Shilpa Vasant Nikam D/o. Mr. Vasant Nikam.

2.2 Defendant has approached plaintiff bank for availing a Personal Loan for a sum of Rs.10,00,000/- (Rupees Ten Lacs Only) in the month of October, 2017. The plaintiff bank after being satisfied with the creditability of the defendant, agreed to grant/ sanction a personal loan facility of Rs.2,35,000/- (Rupees Two Lacs Thirty Five Thousand Only) to the defendant. Accordingly executed necessary documents in favour of the plaintiff Bank and agreed to repay the said loan as per agreed rate of interest. The rate of interest for the personal loan facility

at the time of sanction was 15.49% p.a. The said personal loan was repayable in 36 equated monthly installments of Rs.8,252/- (Rupees Eight Thousand Two Hundred Fifty Two Only) each commencing from 05/12/2017 to 05/11/2020.

2.3 However, defendant failed to repay the said loan. The last payment received from the defendant was on 10/10/2018. On 05/04/2018 the defendant account classify is non performing asset therefore, the plaintiff issued notice dated 13/08/2018 to the defendant and demanded the said amount. However, defendant failed to repay the said outstanding amount. Hence, the plaintiff constrained to file the present suit.

3. The defendant served with the writ of summons. Accordingly, plaintiff filed affidavit of service vide Exh.10. Despite of service of writ of summons, defendant did not appear. Therefore, suit proceeded ex-parte against the defendant on 15/11/2022.

4. From the averments in the plaint, documents filed on record and argument of the learned counsel for the plaintiff, the following points arise for my consideration and determination and I have recorded my findings against them for reasons stated below:-

<u>Sr. No</u>	<u>POINTS</u>	<u>FINDINGS</u>
1)	Does plaintiff prove that defendant availed personal loan of Rs.2,35,000/- (Rupees Two Lacs Thirty Five Thousand Only)?	In affirmative.

2)	Does plaintiff prove that an amount of Rs.2,09,469/- (Rupees Two Lacs Nine Thousand Four Hundred Sixty Nine Only) is outstanding against the defendant towards the arrears of personal loan?	In affirmative.
3)	Whether the plaintiff is entitled for interest as agreed?	In affirmative.
4)	What order & decree?	As per final order.

REASONS

As to Point Nos.1 to 4 :-

5. In order to avoid repetition and for sake of convenient, I proceed to discuss point No.1 to 4 conjointly.

6. In order to establish its claim, the plaintiff has examined its Constituted Attorney named Mr. Ravi Kumar S/o. Mr. Dharmaveer Singh PW 1, who is working as Debt Service Manager and a Constituted Attorney of the plaintiff. He has placed on record his affidavit in lieu of examination in chief in consonance with the averments in the plaint at Exh.11. So far as documentary evidence are concerned, the plaintiff has placed on record the following documents.

- 1) Exh.13 – Power of Attorney dated 18/09/2019.
- 2) Exh.14 – Preliminary Credit facility application original dated 09/10/2017.
- 3) Exh.15 – Credit Facility Application Form original dated 09/10/2017.
- 4) Exh.16 – Loan Terms and Conditions original dated 09/10/2017.
- 5) Exh.17 – Loan Recall Notice issued with postal receipt office copy dated 13/08/2018.

6) Exh.18 – Statement of Accounts along with Certificate.

7) Article A – Particulars of Claim.

7. Heard the learned counsel for the plaintiff and also gone through the written notes of argument Exh.20. It is needless to say that as the suit proceeded ex-parte, therefore, the testimony of PW No.1, Mr. Ravi Kumar S/o. Mr. Dharmaveer Singh remained unchallenged.

8. Even otherwise also from Credit Facility Application Form vide Exh.14 and 15 and Statement of Accounts Exh.18, it reveals that the defendant availed the personal loan of Rs.2,35,000/- (Rupees Two Lacs Thirty Five Thousand Only). Further more, it reveals that the defendant agreed to repay the said loan with interest at the rate of 15.49% per annum in 36 equated monthly installments of Rs.8,252/- (Rupees Eight Thousand Two Hundred Fifty Two Only) each commencing from 05/12/2017 to 05/11/2020.

9. According to the plaintiff, defendant failed to repay the said Personal Loan and an amount of Rs.2,09,469/- (Rupees Two Lacs Nine Thousand Four Hundred Sixty Nine Only) is outstanding against the defendant on 27/11/2018 alongwith penalty for delayed repayment. It reveals from above documents, that the penalty for delayed repayment was agreed Plus applicable Taxes or other statutory levies, if any. From the statement of Accounts, it reveals that an amount of Rs.2,09,469/- (Rupees Two Lacs Nine Thousand Four Hundred Sixty Nine Only) is outstanding towards the principal amount alongwith interest and penalty charges on 27/11/2018 excluding the future EMI alongwith penalty for delayed repayment. Thus, the plaintiff

is entitled for agreed rate of interest since 27/11/2018 till realisation of entire outstanding amount.

10. Thus, from unchallenged testimony of PW No.1 coupled with documentary evidence, its proved that an amount of Rs.2,09,469/- (Rupees Two Lacs Nine Thousand Four Hundred Sixty Nine Only) is outstanding against the defendant. Therefore, the defendant is liable to repay the said amount to the plaintiff with agreed interest @ 15.49% p.a. from 27/11/2018 till realization of entire amount. Accordingly, I recorded my findings to point Nos.1 to 3 in the affirmative and proceed to pass the following order.

ORDER

- 1) Suit is decreed with costs.
- 2) Defendant do pay an amount of **Rs.2,33,948/-** (Rupees Two Lacs Thirty Three Thousand Nine Hundred Forty Eight Only) along with interest @ 15.49% p.a. from the date of filing of the suit till realisation of entire outstanding amount to the plaintiff.
- 3) Decree be drawn up accordingly.

Date : 05.04.2023

(Smt. V.D. Ingle)
Judge
City Civil Court,
(Borivali Division),
Dindoshi, Goregaon,
Mumbai

Date of dictation : 05.04.2023

Date of transcription by steno : 15.04.2023

Checked & signed by HHJ on : 17.04.2023

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”	
18.04.2023 at 11.35 a.m. UPLOAD DATE AND TIME	Mrs. J. S. Gole (H.G.STENOGRAPHER) NAME OF STENOGRAPHER
Name of the Judge (With Court Room No.)	H.H.J Smt. V. D. Ingle (Court Room No.2)
Date of pronouncement of Judgment/Order	05.04.2023
Judgment/Order signed by P.O. on	17.04.2023
Judgment/Order uploaded on	18.04.2023