KAHS810000502023

Presented on : 05-01-2023
Registered on : 05-01-2023
Decided on : 07-08-2026
Duration:03 years, 07 months, 02 days.

IN THE COURT OF I ADDL. CIVIL JUDGE AND JMFC, SAKALESHPURA.

:PRESENT :

Smt. Shruthi K.S.,B.A.,LL.B.
I Addl. Civil Judge & JMFC,
Sakaleshpura

Dated this the 07th day of August, 2026

O. S.No.4/2023

PLAINTIFF :

Canara Bank, Anemahal Branch B.M.Road, Anemahal and Post, Sakaleshpur branch
Represented by its Manager Sri.Jayadev Golpinathan S/o Raghavamenon Gopinathan, Aged 41 years r/o Anemahal and post, Sakaleshpur Taluk.

(Reptd.by Sri.**I.E.P.,**Adv.)

/Vs./

DEFENDANT :

Sri.H.M.Abdulla S/o Moosa Beri, Aged 57 years, R/o Heggadde Village and Post, Sakaleshpura Taluk

(Exparte)

:JUDGMENT:

The plaintiff bank has filed this suit against the defendant for a sum of Rs.2,81,558-85/- with future interest @ 11.70% p.a. from the date of suit till realisation and such other reliefs.

2. <u>THE CASE OF THE PLAINTIFF BANK IN BRIEF IS AS UNDER:</u>

The plaintiff is a Nationalised bank. The defendant being the borrower approached the plaintiff bank for financial assistance of Rs.1,00,000/- for the purpose of his firewood business to repay the same with interest @ 10.95% p.a. compounded monthly for the value received and other banking charges and defendant also undertaken to pay penal interest @ 2% p.a. on the overdue amount. In the event of failure of repayment of loan amount by committing breach of terms and conditions and has right of demand payment of entire liability. The defendant has hypothecated stock of saloon shop. The defendant has hypothecated stock in trade mentioned in the hypothecation agreement till closer of the loan and executed particulars of hypothecated stock on 12-03-2014. Further on 12-03-2014 the defendant executed letter of request for waiver of insurance on goods under lien. It is further submitted inspite of demands as agreed the defendant has not made payment. Hence, the plaintiff bank has issued notice on 20-08-2020 calling upon him to pay the loan amount. The defendant approached the plaintiff bank and executed letter of survival on 10-01-2017, 22-11-2019 and 03-03-2022 and sought time for repayment of loan amount. He has also agreed to make repayment as per the repayment schedule mentioned in the loan documents with interest and other banking charges as and when due. The present rate of interest is charged is 9.70% p.a. compounded monthly. Since the defendant has also agreed to pay penal interest, he is liable to pay interest at the rate of 11.70% p.a. compounded monthly. As per the books of accounts maintained by the plaintiff bank in the regular, usual and ordinary course of business defendant due a sum of Rs.2,81,558.85/-. Hence, this suit.

3. After institution of this suit, this Court issued summons to the defendant. In spite of service of summons defendant remained absent and placed exparte. The case was posted for plaintiff's evidence.

4. In order to substantiate the case, the Bank Manager namely Chandrashekar T.K. is examined as P.W.1 and he has filed his affidavit in lieu of his oral chief-examination and got marked in total 9 documents and closed his side evidence.

5. Heard arguments and perused the materials available on record.

6. On the basis of the above pleadings, the points that would arise for my consideration are:

1. Whether the plaintiff bank proves that on 12-03-2014, the defendant availed loan of Rs.1,00,000/- from it for his firewood business by executing loan agreement and other documents and agreed to repay the same along with interest @ 11.70% p.a. ?

2.Whether the plaintiff bank is entitled for the relief as claimed by it ?

3. What Order ?

7. My findings to the above points are as under:

POINTS NO.1 and 2 : In the Affirmative
POINT NO.3: As per final order

for the following:

:REASONS:

POINTS NO.1 AND 2:- Since both points are inter-linked and inter-connected with one another, they are taken up together for discussion in order to avoid the repetition of facts.

8. The plaintiff bank in order to prove its case has got examined its Branch Manager namely Chandra shekhsar T.K as PW1. PW1 in his chief examination affidavit has reiterated the averments of the plaint. In support of his oral evidence, PW1 has produced and 09 documents got marked the same as Exs.P1 to ExP9. Ex.P1 is the loan application. The said document shows that the defendant obtained loan of Rs1,00,000/- - from the plaintiff bank. Ex.P2 loan sanction memorandum shows that Rs.1,00,000/- is granted to the defendant and rate of interest is mentioned as 10.70% p.a. The repayment schedule is mentioned as 36 EMI of Rs.3,272/-. Ex.P.3 Agreement and deed of hypothecation shows that, the defendant availed loan for sum of Rs.1,00,000/- form the plaintiff Bank Exs.P.4 to 6 Three revival letters, Ex.P.7 Notice issued by the bank calling upon the defendant to repay the loan amount. Ex.P.8 Account Statement,Ex.P.9 Affidavit. ExP8 The statement of account shows that the defendant is liable to pay Rs.2,79,135-85 ps as on 12.12.2022.

9. The plaintiff bank has produced sufficient oral and documentary evidence to establish that the defendants have borrowed a sum of ₹1,00,000/- on 12-03-2014 by agreeing to repay the same with interest at the rate of 10.70% p.a. On the other hand, the defendant has not contested the case and he did not cross-examined the P.W.1. Hence, the testimony of P.W.1 remained unchallenged. Ex.P.1 to 3 categorically depicts quantum of loan availed and terms agreed for repayment. In Ex.P.1 defendant specifically agreed to repay the loan amount with 10.95 % p.a. with interest and also agreed to repay the penal interest @ 2% p.a.

10. The amount which was lent to defendant was public money and it is bounden duty of the bank to recover the said amount with due interest if the defendant has approached contractual agreement and not repaid the loan amount. The Manager of the Plaintiff Bank has submitted statement of account at Ex.P.8. According to Ex.P.8 loan of

KAHS810000502023

Rs 1,00,000/- was sanctioned to the defendant and total demand is 284,126.00/-, total amount collected is Rs.4,990.15 ,over due amount is 273,135.85 ,outstanding principal amount is Rs.98,755 and net accrued interest are Rs.1,346.34/- .The ExP8 has a permissive value U/Sec.4 of Bankers' book of Evidence Act. There is presumption regarding genuineness of bankers book of evidence act. The presumption U/Sec.4 of Bankers book of evidence act stands undenied. Hence, in such an event, there is no impediment at all to consider the Ex.P.8 loan account statement. Viewed from any angle, this Court does not find any reason to discard and disbelieve the claim of the plaintiff bank. The pleadings placed before the Court is in consonance with the documents placed before the Court. On scrutiny of the entire evidence in the light of oral evidence and documentary evidence placed on record, it is held that defendant is liable to pay loan amount due ie.; outstanding balance to the plaintiff bank. Hence, considering the nature of transaction and circumstances of the case, this Court is of the considered opinion that awarding interest @ 8.45 % p.a. is proper since the loan is obtained for business purpose .

11. It is well settled law that if the defendant even though appear before the Court and not made any endeavour to cross-examine the plaintiff, an adverse inference can be drawn against defendant U/Sec.114(3) of Indian Evidence Act. In the present case also defendant has not file his written statement Hence in the absence of any rival claim an adverse inference can be drawn against the defendant and there are no grounds to disbelieve the version of P.W.1. Unless and until the substantial evidence is challenged by the other side it cannot be doubted. Under the principles of preponderance of probabilities there is nothing on record to disbelieve or discard the oral testimony and documentary evidence of the P.W.1. therefore plaintiff bank is entitled for the part of its claim. Accordingly, the above **Point No.1 is answered 'Partly in Affirmative'.**

POINT NO.4:-

12. In the touchstone of the reasons assigned supra on the above points, this Court proceed to pass the following:

KAHS810000502023

:ORDER:

The suit filed by the plaintiff bank is hereby decreed in part with costs.

The defendant is hereby directed to pay to the plaintiff bank a sum of Rs.2,81,558-85 with future interest @ 8.45% per annum from the date of suit till realisation.

Draw decree accordingly.

(Dictated to the stenographer, transcribed by him, corrected by me and then pronounced in the open Court on this the 07th **day of August, 2026**)

(Shruthi.K.S.)
I Addl.Civil Judge and JMFC
Sakaleshpura

:ANNEXURES:

I LIST OF WITNESSES EXAMINED FOR THE PLAINTIFF:-

P.W.1 : Chandrashekar.T.K.

II LIST OF EXHIBITS MARKED FOR THE PLAINTIFF:-

Ex.P.1 : Loan Application

KAHS810000502023

Ex.P.2	**:**	**Sanctioned letter**
Ex.P.3	**:**	**Agreement and deed of hypothecation**
Exs.P.4 to 6	**:**	**Three revival letters**
Ex.P.7	**:**	**Notice issued by the bank dtd:20-08-2020**
Ex.P.8	**:**	**Account statement**
Ex.P.9	**:**	**Affidavit**

III LIST OF WITNESSES EXAMINED AND DOCUMENTS MARKED FOR THE DEFENDANTS:

- NIL-

(Shruthi.K.S.)
I Addl.Civil Judge and JMFC
Sakaleshpura