BEFORE THE COURT OF SUBORDINATE JUDGE, KUZHITHURAI.

<u>Present</u>: Thiru. P. SARAVANABHAVAN, B.A., B.L.,
Subordinate Judge, Kuzhithurai.

On this the 16th day of December, 2022, Friday

<u>C.O. S. No. 37/ 2022</u>

(CNR No. TNKKOC - 0000269-2022)

Canara Bank, Nattalam Branch
Represented by its Branch Manager

.. Plaintiff.

-Vs-

Santhosh Raj ..Defendant.

This Commercial suit came up before me for final hearing on 08.12.2022 in the presence of Thiru. A.R.Arun Chellaram, Counsel for the plaintiff and defendant remained exparte and after hearing plaintiff's side argument and perusing the records of this case, this day, this Court delivers the following:-

<u>JUDGMENT</u>

This Commercial suit has been filed by the plaintiff for realization of Rs.4,59,824/- with future 12.15% interest per annum with compounded monthly rests from the date of suit till the date of realisation of the entire amount from the defendant.

2 <u>The Gist of Averments in the Plaint :-</u>

The Plaintiff is a corporate body having its head office at Bangalore and carrying on banking business through its branches situated in various part of India including one Nattalam-B Village. The Branch Manager of Canara Bank, Nattalam Branch is competent to sue for and on behalf of the plaintiff bank. On 10.02.2016 the defendant had applied for loan with plaintiff bank for purchase of machineries, equipments and raw materials for his wooden furniture business and the plaintiff bank sanctioned a sum of Rs.4,75,000/- to the defendant. The defendant executed Term Loan, deed of Hypothecation of machineries, Agreement cum deed of Hypothecation dated on the same day in favour of plaintiff bank and also executed necessary loan documents. The defendant agreed and signed with the plaintiff bank to repay the loan amount with interest at the rate of 12.15% per annum. Since the loan obtained by the defendant is a Term loan, the repayment schedule commences from March 2016 to a sum of Rs.7,917/- in 60 equated monthly installments as per the sanction condition dated 10.02.2016, the defendant agreed for the sanction condition. The above loan dated 10.02.2016 is due to the plaintiff bank. As promised by the defendant he is not prompt in repayment of loan and discharging his liabilities. The said loan account became overdue and several demands were made by the plaintiff bank to the defendant to repay the loan amount with interest. Finally plaintiff bank issued suit notice dated 27.10.2021 even then the defendant failed to settle the dues with the Bank. As per statement of account a sum of Rs.4,59,824/- is due to the plaintiff bank from the defendant, inclusive of interest. The suit transaction is commercial in nature the plaintiff is entitled to realise Rs.4,59,824/- with 12.15% interest from the date of filing of suit till the date of decree with costs. Hence the suit.

3. The defendant served with the suit summon, but he has not chosen to contest the case and he was set exparte. To prove the case, the plaintiff's side examined PW1 and Exhibits A1 to A10 were marked. Plaintiff side heard. Records perused.

4. The only point that has to be decided in this Commercial suit is; whether the plaintiff bank is entitled for recovery of money as prayed for?

5. The plaintiff filed the suit for recovery of money for a sum of Rs.4,59,824/- along with future interest at the rate of 12.15% per annum from the date of suit till the date of realization of entire amount. PW1, who is the Plaintiff's Bank Branch Manager, in his oral evidence deposed that the defendant got money for purchase of machineries, equipments and raw materials for his wooden furniture business he had applied Ex.A1 loan application to the plaintiff bank and as per Ex.A2 the plaintiff bank sanctioned a loan amount of Rs. 4,75,000/- to the defendant and he executed Ex.A3 - Agreement cum deed of Hypothecation; Ex.A4 - Deed of Hypothecation of Machinery; Ex.A5 - Term Loan Agreement to the plaintiff bank on 10.02.2016 promising to pay the amount of Rs.4,75,000/- with interest. The defendant also executed Ex.A6 and A7 Acknowledgement of Debt and Securities on 07.02.2019 and 10.01.2022 respectively. Even after the repeated demands made by the plaintiff bank the defendant defaulted in payment of the amount. Ex.A8 is the Copy of legal notice issued by the plaintiff bank to the defendant. Ex.A9 is the copy of Account statement. Ex.A10 is the Form 3 Non-Starter Report of the Secretary of District Legal Servives Authority, Nagercoil.

6 Even after the demands made by the plaintiff bank, the defendant has not paid either towards principal or interest to the plaintiff. Therefore the plaintiff bank constrained to file the suit for recovery of money. The defendant has not contested the case and he was set exparte. The plaintiff proved his case against defendant through PW1 Exhibits A1 to A10 documents and that the plaintiff is entitled for the suit claimed amount and the defendant is liable to pay the suit claim to the plaintiff. The defendant has not challenged the testimony of PW1 and A1 to A10. From the unchallenged testimony of PW1 and the plaintiff side Exhibits A1 to A10, this court is found that, the plaintiff is proved that the defendant is borrowed a sum of Rs. 4,75,000/- and executed Ex.A3 to A7 documents and the plaintiff demanded the suit claim from the defendant and defendant has not paid the amount and he had also liable to pay suit claimed amount. The plaintiff proved his case against the defendant with the probable evidence of PW1 and Exhibits A1 to A10. The plaintiff's oral evidence and documentary evidences corroborated with each other and this court is relied the plaintiff's side evidence and this court is held that the plaintiff is established his case against the defendant and he is liable to pay the suit claim and cost to the plaintiff.

In the result, this court is decreed the Commercial suit, that the defendant is directed to pay a sum of Rs.4,59,824/- along with future interest at the rate of 12.15% from the date of plaint to till the date of judgment and thereafter 6% per annum till the date of realization of entire amount with costs.

Dictated to the Steno-typist and typed by her in computer directly and corrected by me and pronounced in open court, on this the 16th day of December, 2022.

P SARAVANABHAVAN

Digitally signed by P SARAVANABHAVAN
Date: 2023.01.13 17:14:46 +0530

Subordinate Judge,

Kuzhithurai.

Sub Court, Kuzhithurai.

APPENDIX

Plaintiff's side Witnesses:-

1 PW1 - Thiru. Brose Serjin (Plaintiff's Bank Branch Manager).

Plaintiff's side Exhibits:-

1.	Ex. A1 -	--	- Original Loan application
2.	Ex.A2 -	10.02.2016	- Original Loan sanctioned Letter.
3.	Ex.A3-	10.02.2016	- Original Agreement cum deed of Hypothecation executed by defendant in favour of plaintiff bank.
4.	Ex.A4-	10.02.2016	- Original Deed of Hypothecation of Machinery executed by defendant in favour of plaintiff bank.
5.	Ex.A5-	10.02.2016	- Original Term Loan Agreement executed by defendant in favour of plaintiff bank.
6.	Ex.A6-	07.02.2019	- Original Acknowledgement of Debt and Security executed by defendant in favour of plaintiff bank
7.	Ex.A7-	10.01.2022	- Original Acknowledgement of Debt and Security executed by defendant in favour of plaintiff bank
8.	Ex.A8-	27.10.2021	- Copy of Legal notice issued by the plaintiff bank to the defendant with postal receipt
9.	Ex.A9-	23.02.2022	- Copy of Statement of Accounts.
10.	Ex.A10-	26.07.2022	- Original Form 3 Non-starter Report issued by the District Legal Services Authority, Nagercoil.

Defendant's side witnesses and Exhibits: Nil.

P SARAVANABHAVAN Digitally signed by P SARAVANABHAVAN Date: 2023.01.13 17:14:54 +0530

Subordinate Judge,
Kuzhithurai.