MHRT020006162020	Presented on : 19/12/2020 Registered on : 19/12/2020 Decided on : **04/07/2026** Duration :05 Y 06 M 06 D

IN THE COURT OF CIVIL JUDGE (SENIOR DIVISION), RATNAGIRI, DIST. RATNAGIRI

(Presided over by P.S.Patil, Joint Civil Judge Senior Division, Ratnagiri)

Special Civil Suit No. : 117/2020

EXH. 55

Union Bank of India (E-Corporation Bank)
Vidhan Bhawan Marg, Nariman Point, Mumbai
Having its Branch Offices
At Ratnagiri, Taluka & District Ratnagiri
Through its authorized officer,
Mr. Veeresh S/o Chandrashekhar
Age : 35 years, **Occu.** Service,
R/o. Union Bank of India (E-Corporation Bank)
2,D – Wing, Jawkar Plaza Jaistambha,
Tal. & Dist. Ratnagiri. **...Plaintiff**

- Versus -

1. Shree Bhavani Footwear,
   Harsanram Kalaji Devashi
   Age : 45 years, **Occu.** Business,
   R/o. 1705, Patilwadi Road,
   Athawada Bazaar, Ratnagiri.

2. Laccharam Pannaram Devanshi,

Age : 42 years**, Occu.** Business**,**

R/o. Nakoda Building, Near Parwardhan Highschool,

Athwadea Bazaar, Ratnagiri **...Defendants**

Shri. K.G.Phadake, learned advocate for the plaintiff bank.

Ex-parte against the defendant No.01

Shri. S.S. Padvekar, learned advocate for the defendant No.02.

JUDGMENT
(Delivered on 04/07/2026)

This is a suit by bank for recovery of loan amount of Rs.19,02,976/-.

CASE OF THE PLAINTIFF -

02. The plaintiff Union Bank of India (E-corporation Bnak) (i.e. the plaintiff bank) is a body corporate constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act 1970, having its registered Head office at Union Bank Bhavan, 239, Vidhan Bhavan Marg, Nariman Point, Mumbai – 400021 and carries all types of banking business. It has its branch office at 2, D- Wing, 1st Floor Jawkar Plaza, Jaistambha, Taluka & District Ratnagiri 415612.

03. It is the contention of the plaintiff bank that, under the scheme notified by the Central Government, the Andhra Bank and the Corporation Bank were amalgamated into the plaintiff bank under the Amalgamation Scheme, 2020. With this amalgamation the assets and liabilities of the Corporation Bank have been vested into the plaintiff bank. The instant loan transaction has originally done with the Corporation Bank and its borrowers are now the borrowers of the plaintiff bank.

04. Defendant No.01 is a borrower of the plaintiff bank. He is dealing business of footwear as wholesale dealer and also retailer under the name of Shri Bhavani Footwear. Defendant No.01 preferred an application dated 17/06/2015 and requested granting bank to grant him Cash Credit Facility of Rs.16,00,000/- for his business under CORP VYAPAR(CVPOD) Scheme. Defendant No.02 stood as his guarantor.

05. The plaintiff bank sanctioned to defendant No.01 Cash Credit Facility of Rs. 16,00,000/- on 17/06/2015. For Cash Credit Loan defendant No.01 hypothecated his stock and assets. The cash credit loan A/c No. is 56036000030981 (Old A/c No. CVPOD/01/150002). The agreed rate of interest on the above mentioned loan amount was 12.00% p.a. being over and above Base Rate rising or falling therewith compounded with monthly rests from 17/06/2015 till payment failing which bank will be constrained or at such revised rate as may from time to time be fixed by the plaintiff Bank.

06. Before obtaining the loan the defendants had obtained all the necessary information regarding the loan facility. They had fulfilled all necessary legal compliance like furnishing duly signed loan application form and other necessary documents. However, thereafter, the defendants failed to repay the loan amounts as per agreed terms and conditions. They withdrew the loan amount from time to time but thereafter, failed to repay the loan amount. Therefore, on 29/09/2018, defendants loan account was declared NPA (Non Performing Assets) as per RBI rules.

07. On 15/09/2020, the plaintiff bank sent legal notice to defendants demanding the loan amount along with uncharged interest and incidental charges pending upto 27/08/2020. However, the notices were returned unserved to the plaintiff bank. Currently, (i.e. at the time of filling of the suit) the outstanding balance against the defendants is of Rs.19,02,976/-. The plaintiff bank has claimed said principal amount along with further interest @12.80% p.a. Therefore, the plaintiff bank has sought the relief of recovery of principal amount of Rs. 19,02,976/- along with further interest @12.80% p.a.

CASE OF THE DEFENDANTS

08. The defendants are duly served with suit summons. However, defendant No.01 failed to appear before the Court. Therefore, as per order dated 10/08/2022 passed below Exh.01, the suit proceeded ex-parte against defendant No.01.

09. Defendant No.02 appeared before Court and filed his written statement at (Exh.11)and resisted the claim of the plaintiff bank. He denied contents of Para 09 of the plaint and disputed that Mr. Veeresh Chandrashekhar was the then authorized person of behalf of the plaintiff bank to file the instant suit.

10. He contended that, the suit is barred by the limitation. He contended that, all the documents filed by the plaintiff bank are false. He further contended that, the execution of documents was doubtful. He further contended that, the suit is barred by the principal of non joinder of the necessary parties. The plaint is liable to be rejected due to absence of cause of action. He further contended that, this Court is having no jurisdiction to try this suit.

11. By way of special submission, defendant No.02 has further contended that, the dis-honest officers of the plaintiff bank committed fraud on him and by way of deception obtained is signatures on loan documents. He further contended that, the plaintiff bank has suppressed the guidelines issued by RBI, touching to the business of plaintiff bank. He further contended that, the plaintiff bank has charged the interest at the exorbitant rate. In fine, defendant No.02 made prayer for dismissal the suit for want of merit.

ISSUES

12. In view of rival pleadings, my learned Predecessor – in-Office framed following issues at Exh.27. I have reproduced these issues along with the findings thereon for reasons stated below :-

Sr. No.	Issues	Findings
1.	Does plaintiff bank prove that, the defendant had obtained the loan for his footwear business under CORPVYAPAR	Yes.

	(CVPOD) Scheme and the amount of Rs.19,02,976/- is due from defendants ?	
2.	Whether plaintiff bank is entitled to recover the due amount as claimed?	**Yes.**
3.	Does defendant No.02 prove that, suit is barred by limitation ?	**No.**
4.	Does defendant No.02 prove that, suit is not maintainable in the present form and fraud and deception practiced on him by the plaintiff bank?	**No.**
5.	Whether the plaintiff bank is entitled for interest on the amount due @ 12.80 % p.a. ?	**Yes, but @12.00% p.a.**
6.	What order and decree ?	**As per final order.**

EVIDENCE

13. To prove its case, the plaintiff bank has examined its representative Seerat Rane as P.W.01 at Exh.37. It has not examined any other witness. The plaintiff has also relied on following documents -

Sr. No.	Documents	Exh. Numbers
1.	Loan application form CVPOD	**31.**
2.	Credit Sanction intimation (Loan Sanction	**32.**

	Letter)	
3.	Demand Promissory Note	33.
4.	Take delivery letter to D.P.N.	34.
5.	Letter of undertaking/Declaration from the Borrowers	35.
6.	Guarantee Agreement	36.
7.	Acknowledgment of Debt/ liability by the borrowers	37.
8.	Common deed of hypothecation of movables/assets/debts	38.
9.	Request for overdraft facilities/Cash Credit Limit	39.
10.	Request for overdraft facilities/Cash Credit Limit	40.
11.	Demand notice sent to dfdt by Advocate of plaintiff	41.
12.	Return of envelope containing notice sent RPAD to defendant No.1	42.
13.	Return of envelope containing notice sent by RPAD to defendant No.2	43.
14.	Account extract of defendant No.01's loan account along with certificate	44.
15.	POA given to Mr. Veeresh Manager Union bank of India, branch Ratnagiri	45.
16.	Transfer letter by the Regional Office of the plaintiff Bank, Kolhapur to the Manager of the plaintiff Bank, Seerat Rane .	46.

17.	Copy of the power of attorney in the name of Seerat Rane to conduct the trial of the suit.	**47.**

The plaintiff bank has filed pursis at **Exh.50** to close its evidence.

ARGUMENT

14. Learned advocate for the plaintiff bank argued that, from the documents on record like loan application form, loan sanction letter, demand promissory note, Letter of undertaking, guarantee agreement, acknowledgment of Debt etc. it has been proved by the plaintiff bank that, defendant No.01 borrowed cash credit loan of Rs.16,00,000/- from the plaintiff bank to which defendant No.02 stood as guarantor. Now, the outstanding loan amount of Rs. 19,02,976/- is due against the defendants and therefore, the suit be decreed. Where as learned advocate for defendant No.02 argued that, the loan papers are bogus, the suit is not within limitation and the loan account statement has not been proved, therefore, the suit be dismissed with the costs.

REASONS

As to Issue Nos. 01, 02 and 04 -

15. These issues being dependent on same set of facts and evidence, to avoide repetition of the same, I have discussed them together. Now, it is the contention and evidence of the plaintiff that, defendant No. 01 is the borrower of the plaintiff bank. He was running footwear wholesale and retail business in the name of Shri. Bhavani footwear. Defendant No.01 preferred an application dated 17/06/2015 and requested plaintiff bank to grant him Cash Credit Facility of Rs.16,00,000/- for his business under CORP VYAPAR(CVPOD) Scheme. Defendant No.02 stood as his guarantor for that loan.

16. It is further pleading and evidence of the plaintiff bank that, the plaintiff bank sanctioned to defendant No.01 Cash Credit Facility of Rs. 16,00,000/- on 17/06/2015. For Cash Credit Loan defendant No.01 hypothecated his stock and assets. The cash credit loan A/c No. is 56036000030981 (Old A/c No. CVPOD/01/150002). The agreed rate of interest on the above mentioned loan amount was 12.00% p.a.

17. The evidence on the behalf of the plaintiff bank was given by Mrs. Seerat Rane (at Exh.28). Now, the defense of the defendant No.02 is of total denial of the very transaction of loan. As per defendant No.02 the plaintiff bank has furnished false documents. The execution of the document is doubtful and that, loan acknowledgment receipt is not signed by him. Other legal defenses adopted by him are vague and not precise. The legal defense is that, the plaintiff bank has acted in violation of Reserve Bank Of India (RBI) Rules.

18. The plaintiff bank has filed on record the copy of request for Overdraft Facilities/Cash Credit Limit (at Exh.39). It bears signature of defendant No.01 Hursan Ram on behalf of Shri. Bhavani Footwears. It clearly shows, defendant No. 01 has borrowed Cash Credit Limit Loan of Rs.16,00,000/- from the plaintiff bank. At Exh. 38 there is Common Deed of Hypothecation of Movables executed by defendant No.01 in favor of plaintiff bank. It also bears signature of defendant No.01. Then, there is Loan Sanction Letter by plaintiff bank to defendant No.01 which is at Exh.32. It is signed by both defendant No.01 and defendant No.02. The Demand Promissory Note (Exh.33) is singed by defendant No.01. Take Delivery Letter acknowledging liability of Rs.16,00,000/- signed by defendant No.01 is at Exh.34. Letter of Undertaking to repay the loan is at Exh.35. Most importantly, the Guarantee Agreement is at Exh. 36. It is signed by both by defendant No.01 and defendant No.02.

19. All this documentary evidence has been proved by plaintiff's witness Mrs. Seerat Rane. Her evidence has not been challenged by defendant No.01. Defendant No.02 has challenged this evidence, (which can be seen from his line of cross examination) on ground that, the loan transaction was not executed in her presence and therefore, no such transaction has altogether been happened.

20. I don't find merit in this argument. The plaintiff bank is a body corporate. Any agreement or instrument of loan or any other transaction which is executed in the name of body corporate is used to be executed by its any employee or any other person nominated by the body corporate for that purpose. Generally, those persons are branch managers of its respective branches of banking company. Those branch managers routinely get transferred. Therefore, the plaintiff bank nominates the then current serving branch manager or any other employee to give testimony of behalf of the bank. Nothing can be find unusual, exceptional or objectionable in this practice, unless the defendants shows that, the gross prejudiced has been occurred due to non examination of the very branch manager who executed loan transaction with the defendants. In the instant case, nothing sought of such prejudiced has been brought on record by defendant No.01. Mere denial of loan transaction is not enough. Particularly when, credit sanction letter (Exh.32) and the agreement of guarantee (Exh.36) have been signed by both defendant No.01 and defendant No.02, no explanation is coming from defendant No.02 that, why his signature appears there. Mere vague denial is not enough. There is no reason to plaintiff bank to engage falsely defendant No.02 as guarantor for loan borrowed by defendant No.01. And if, it was so, as an ordinary prudent man, defendant No.02 might have prosecuted the plaintiff bank for forgery of the documents. But, there is nothing of such sort on record. Therefore, it appears that, defendant No.02 voluntarily stood as guarantor to the loan borrowed by defendant No.01.

21. The Credit Sanction Letter and Demand Promissory Note show that, the loan borrowed by the defendant No.01 is borrowed in date 17/06/2015. The quantum of loan is Rs.16,00,000/-. It also shows the agreed rate of interest 12% p.a. being 1.25 % below/ over and above the base rate rising or falling. Thus, defendant No.01 borrowed loan of Rs.16,00,000/- is fact well established.

22. Now, it is the case of the plaintiff bank that, defendant No.01 and 02 made defaults in their repayment of loan. As per ledger balance as on 18/11/2020, the loan amount of Rs. 19,02,976/- is outstanding against the defendants. To prove said facts, the plaintiff bank has filed on record the account statement of Shri. Bhavani Footwear. This is a computerized print. Learned advocate for defendant No.02 took strong objection. He is relied on **ANVAR P.V. V/S. P.K. BASHEER AND ORS. (CIVIL APPEAL NO.4226 OF 2012)** wherein it was held that, an electronic record by way of secondary evidence shall not be admitted in evidence unless the requirements under Section 65 B of The Indian Evidence Act, 1872 are satisfied.

23. It is submitted with due respect that, there is no other opinion than, the ration laid down in Anvar P.V's case (supra) that, the electronic record by way of secondary evidence shall be furnished in compliance of requirements u/s. 65 B of the Evidence Act. He is also relying on **SADANAND @ SADASHIV VASANT BANGAR V/S. SANDEEP DEVIDAS FATE AND OTHERS IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH NAGPUR Writ Petition Number 1618/2019 decided on 20/102023** wherein it was held that, to prove the documents of loan as per bankers books, the party is required to produce certified copy of such documents of bankers books as per Section 2 (8) of the Bankers Books Evidence Act,1891. It is was further held that, when such certified copy is print out of electronic data retrieval mechanism or stored in magnetic tape or electro magnetic data storage devise, it shall be accompanied with the certificate as per the Section 2 A of said act. It was held that, said certificate shall accompany following particulars -

a. a certificate to the effect that it is a printout of such entry or a copy of such printout by the principal accountant or branch manager and,

b. a certificate by a person in charge of computer system containing a brief description of the computer system and the particulars -

A. the safeguards adopted by the system to ensure that data is entered or any other operation performed only by authorized persons

B. the safeguards adopted to prevent and and detect unauthorized change of date

C. the safeguards available to retrieve date that is lost due to systemic failure or any other reasons

D. the manner in which data is transferred from the system to removable media like floppies, discs, tapes or other electro magnetic date storage devices.

E. the mode of verification in order to ensure that data has been accurately transferred to such removable media

F. the mode of identification of such date storage devices

G. the arrangements for the storage and custody of such storage devices

H. the safeguards to prevent and detect any tampering with the system and (I) any other factor which will vouch for the integrity and accuracy of the system………………...

24. Thus, the certificate for computer printout ought to have contented above mentioned particulars. But, such certificate is not on record. The certificate attached with the said bank account statement is worded as follows -

CERTIFICATE

This is to certify that it is print out of date stored in electromagnetic date storage device and is a true copy of loan account statement and entries in it are made in the usual and ordinary course of business stored in the form of mechanical or electronics data retrieval mechanism and obtained by a mechanical process which in itself ensures the accuracy of printout.

Sd/-

25. The plain reading of certificate shows that, it is not in accordance with the provisions of per Section 2 (8) of the Bankers Books Evidence Act,1891. And correctly, as argued by learned advocate for defendant No.02, it can not be read into evidence. Thus, the Loan Account Statement Extract has not been proved.

26. However, the argument of learned advocare for defendant No.02 that, suit is liable to be dismissed for want of proof of loan account statement is not correct. It is true that, the loan account statement of Bhavani Footwear (Defendant No.01) has not been proved. However, as observed above, the rest of the evidence clearly shows that, defendant No.01 borrowed the loan amount of Rs.16,00,000/- from the plaintiff bank on 17/06/2015. However, on 11/05/2018 defendant No.01 has given

Acknowledgment of Debt/Liability of Loan accepted from plaintiff bank. Vide said acknowledgment defendant No. 01 acknowledges his loan liability up to 11/05/2018 to the extent of Rs. 16,34,518/- inclusive of interest and charges debited up to 30/04/2018.

27. Now, it is not defense of defendant No.01 and defendant No.02 that, said acknowledgment is not of that loan amount. The only defense of defendant No.02 is that, said acknowledgment is not signed by him and therefore, is not binding on him. To prove his contention defendant No.02 is relying on **HIGH COURT OF BOMBAY SANGALI BANK LTD V/S. KANISHKA INVESTMENT PVT LTD 1998 LAW SUIT BOMBAY 584** wherein in fact issue of limitation was decided in favor of the plaintiff bank and therefore, said ruling is of no use to defendant No.02. Further, in my considered opinion this defense is not correct as the liability of guarantor is co-extensive with that of principal debtors as per Section 128 of Indian Contract Act 1872.

28. Further, the defense of defendant No.02 of fraud and deception practiced by plaintiff bank on him is not proved at all. No particulars of fraud and deception have been put forth by him. This fact being within his special knowledge, he ought to have given its particulars and ought to have proved said fact. But, defendant No.02 even did not bother to enter into witness box to prove his defense. Thus, it can be seen that, on 11/05/2018 the acknowledged liability of defendant No.02 was of Rs. 16,34,518/-. As seen above, the agreed rate of interest being 12% +/- 1.75 %, on the date of filing suit it will certainly reach to Rs.19,02,976/-. The defendants are liable jointly and severally to pay the same along with the agreed rate of interest. Accordingly, I have answered Issue Nos. 01and 02 in the affirmative and Issue No.04 in the negative.

<u>As to Issue No. 03.</u>

29. It is the defense of defendant No.02 that, the loan is allegedly dated 17/06/2015 and the suit is filed 19/12/2020. And its being filed after 3 years, the suit is time barred. I find no merit in this argument. It is true that, as per Section 18 and 19 and Article 23 and 24 of the Schedule of the Limitation Act, 1963 prescribed period for filing a suit for money payable by the defendant is 3 years from the date of cause of action. In the instant case, no evidence is on record of actual date of receipt of loan amount of defendant No.01. But, the loan is sanctioned on 17/06/2015. In the absence of the actual date of default, it can be presumed that, limitation to file suit to recover loan ends on 16/06/2018. However, defendant No.01 has given acknowledgment of his debt/liability (at Exh.37) on 11/05/2018 i.e. on date before expiry of limitation and revived the period of limitation which expires on 10/05/2021. But, as instant suit being filed on 19/12/2020, it is well within limitation. Accordingly, I have answered Issue No.3 in the negative.

<u>As to Issue No. 05.</u>

30. The plaintiff bank has claimed interest on the principal amount @ 12.80% p.a. As discussed above, the Loan Sanction

Letter (Credit Sanction Intimation at Exh.32), Demand Promissory Note (Exh.33)show the agreed rate of interest @ 12% which is floating within limit of +/- 1.75%. There is nothing on record to show that, floating rate of interest now extends to 12.80% as claimed by the plaintiff bank. Therefore, the plaintiff bank is entitled to the interest @12.00% p.a. on amount due. Accordingly, I have answered Issue No.5 in such fashion.

As to Issue No. 06.

31. In view of observations and findings as to Issues No. 01 to 05 above, it is proved by the plaintiff bank that, defendants No. 01 and 02 are jointly and severally liable to pay to the plaintiff bank an amount of Rs.19,02,976/- with interest thereon at 12.00% per annum from the date of suit till realization of that amount. Therefore, the suit deserves to be decreed with the costs. Hence, following order :-

ORDER

1. The suit is decreed with costs in following terms-
2. Defendants No.01 and 02 are held jointly and severally liable to pay to the plaintiff bank an amount of rupees 19,02,976/- (Nineteen Lakh Two Thousand nine Hundred Seventy-Six Rupees) with interest thereon at the rate of 12.00% per annum from date of the suit till realization of the aforesaid amount.
3. Defendants No. 01 and 02 shall pay the above mentioned amount to the plaintiff bank within two months from the date of this judgment.

4. Decree be drawn up accordingly.

(Dictated and Pronounced in the open Court.)

PRAMOD SHANKARARAO PATIL

Digitally signed by PRAMOD SHANKARARAO PATIL
Date: 2026.07.04 17:48:02 +0530

Date : 04/07/2026 **(P. S. Patil)**
Place : Ratnagiri **Jt. Civil Judge Senior Division,**
Ratnagiri.

CERTIFICATE

I affirm that the contents of this P.D.F. file judgment are same, word to word, as per the original Judgment.

Name of the Stenographer	: Sou. R.Y.Palekar
Court	:Jt. Civil Judge Sr. Division, Ratnagiri
Date	: 04/07/2026
Judgment signed by the presiding officer on	: 04/07/2026
Judgment uploaded on	: 04/07/2026