

**IN THE COURT OF THE II ADDITIONAL SUBORDINATE JUDGE OF
TIRUCHIRAPPALLI**

Present : Thiru. A.B.Naseer Ali., B.A., B.L.,
II Additional Subordinate Judge,
Tiruchirappalli.

Monday, the 11th day of November 2024.

O.S. No. 822/2022

CNR.No.TNTP04-001650-2023

Between

Canara Bank

Branch at Thuvakkudi

By its Branch Manager

...Plaintiff

and

1. S. Maheswari

2. S. Subramanian

...Defendants

Counsel on Record:

For Plaintiff - Mr.T. Jayaraman

Defendants - *Ex parte*

This suit came before this court on 22.10.2024 for final hearing and the plaintiff side was heard. Defendants 1 and 2 remained *ex parte*. Upon perusal of records and having stood over for consideration till this day, this court delivers the following...

JUDGMENT.

Suit for decree for money directing the defendants to pay a sum of Rs.2,37,742.49/- with subsequent interest and for cost of the suit.

2. Gist of Complaint:

(i) On 22.03.2014 the defendants 1 and 2 jointly approached the plaintiff bank seeking Educational Loan for the 1st defendant's studies of B.E., (EEE) in K.Ramakrishnan College of Engineering, Trichy which is a four year program.

(ii) Accordingly, their application was scrutinized and the loan for a sum of Rs.1,56,000/- was sanctioned by the Banking Authority on 11.04.2014 and for which the 2nd defendant alone executed the General Agreement in favour of plaintiff's Bank on 12.05.2014 for himself and on behalf of his daughter since the 1st defendant was minor during that time and agreed to repay the same with interest at 11.20% per annum provided that the above interest shall be subject to the changes in interest rates.

(iii) The 1st defendant and 2nd defendant have executed the loan documents and thereby agreed to repay the loan after one year of completion of Course or after six months from the date of getting employment of 1st defendant, whichever is earlier.

(iv) It is redundant to state that the 2nd defendant who is the father of the 1st defendant is also a borrower-cum-co-obligant.

(v) To the surprise of plaintiff's bank, both the 1st and 2nd defendants did not operate the said loan account as promised and the same has resulted in accumulation

of huge loan dues and the reminders of plaintiff's bank in calling upon them to settle the loan dues evoked no response. After much persuasion, the 2nd defendant acknowledged loan liabilities through execution of Revival Letter on 03.05.2021 and still the defendants have not taken any real steps in settling the dues.

(vi) It is needless to state that the 1st defendant completed the Course in time. In spite of executing the Acknowledgement of Liability of Debts, the defendants 1 and 2 did not take any concrete steps in settling the dues and hence, a Lawyer's Notice dated 04.05.2022 was issued on behalf of the plaintiff bank to the defendants, but of no avail.

(vii) As per the Statement of Accounts kept and maintained in the usual course of business of the plaintiff's Bank, a sum of Rs.2,37,742.49 is payable by the defendants. Hence, the suit.

3. Gist of Written Statement of D2:

(i) Plaintiff is false, vexatious and unsustainable in law and on facts.

(ii) The allegations that the defendants 1 and 2 jointly approached seeking Educational Loan for the first defendant's studies B.E.,(E.E.E) in K.Ramakrishnan College of Engineering, Tiruchy – a four years program and a sum of Rs.1,56,000/- was agreed to be repaid with interest at 11.20% p.a. on 22.03.2014 all are specifically denied as false. The plaintiff is put to strict proof of the same.

(iii) The loan was given not in a single transaction. It was disbursed in four transactions. The plaintiff bank obtained sign from the second defendant without

intimating the content of the document. So, the second defendant is unaware about signing of the documents.

(iv) The 2nd defendant has not executed any relevant loan documents in favour of the plaintiff bank for the alleged educational loan and it is specifically denied as false.

(v) The plaintiff did not give any information to the second defendant about the repayment of the loan. The second defendant did not sign in any revival letter. And this document is falsely fabricated by the plaintiff for the purpose of the suit. The defendants have not received any lawyer notice.

(vi) It is humbly submitted that the second defendant is not liable to pay the suit amount along with interest. The interest claimed by the plaintiff is highly excessive and usurious. The court fee has not been assessed and paid properly.

(vii) The second defendant humbly submits that he has borrowed an Educational Loan for her daughter's education purpose. The first defendant has not got any employment after completing her studies. She is also preparing for the competitive exams. But, she could not find any job. Therefore, the first defendant is unable to repay the loan amount.

(viii) The 2nd defendant states that he is already exhausted and not in a position to settle the dues for the time being, however, he undertakes to settle the dues after a reasonable time. The 2nd defendant requests the plaintiff bank to grant some more reasonable time to mobilize fund and settle the loan dues payable to plaintiff bank.

The 2nd defendant has no intention to delay the repayment or to defraud plaintiff bank. If one year time is granted, it would be able to mobilize the amount and thereby the problem would come to an end.

(ix) The suit is false and frivolous and is liable to be dismissed with exemplary cost.

4. Issues:-

1. Whether the plaintiff is entitled to the recovery of suit amount?
2. To what other relief, the plaintiff is entitled to?
5. On the side of the plaintiff, its Branch Manager was examined as PW1 and through him Ex.A1 to Ex.A7 were marked. Defendants remained *ex parte*.

6. Issue No.1 :

(i) Ex.A1, loan application and Ex.A2, Sanction Letter prove that the defendants have borrowed a sum of Rs.1,56,000/- from the plaintiff bank. Ex.A3, Agreement confirms the same. Ex.A7, statement of account proves not only that a sum of Rs.1,56,000/- was credited into the account of the defendants but also proves that there was a credit on 21.02.2020. Thus, the suit has been filed in time. Ex.A4, Acknowledgment of Debt and Security further confirms the limitation. Ex.A7 also proves that a sum of Rs.2,37,742.49 is to be paid by the defendants as on 03.05.2022.

(ii) Even though the second defendant has filed the written statement, he later remained *ex parte*. Further, he has accepted the receipt of money with open words. He also assured to pay the amount if one year time is granted. The written statement

was filed on 06.03.2023. Now, it is more than 1 ½ years. But even after availing the time sought for, the second defendant did not repay the money. Rather, he left the suit to be decreed *ex parte*. First defendant remained *ex parte* throughout the proceeding.

(iii) Apart from marking the documents mentioned above, the plaintiff's branch manager examined himself as PW1 and supported the case of plaintiff. Since the defendants remain *ex parte* it is viewed that they have no specific case to contest against the case of plaintiff. Hence, this issue is answered in favour of plaintiff.

7. Issue No.2:

(i) As per the decision in issue number 1, the plaintiff has been granted with the relief for which it has approached the court. Hence, it is not entitled to any other relief.

In the result, the suit is decreed in the following terms:

- 1) the defendants are directed to pay a sum of Rs.2,37,742.49/- to the plaintiff.
- 2) they are directed to pay interest @ 11.20% per annum from the date of plaint till the date of decree for the principal amount of Rs.1,56,000/-.
- 3) they are directed to pay interest @ 6% per annum for the principal amount from the date of decree till the date of realization.
- 4) they are directed to pay the costs of the suit.
- 5) all the amounts stated above are to be paid within 3 months.

Dictated to the steno-typist, transcribed and printed out by her and corrected and

pronounced by me in open court on this, the 11th day of November 2024.

II Additional Subordinate Judge,
Tiruchirappalli.

Plaintiff Side Witness :

PW1.Thiru.Joe Xavier Deepak

Plaintiff Side Documents :

Ex.No.	Date	Particulars
Ex. A1	--	Loan Application - Original
Ex. A2	22.04.2014	Sanction Letter - Original
Ex. A3	12.05.2014	Educational Loan Agreement - Original
Ex. A4	12.05.2014	Agreement - Original
Ex. A5	03.05.2021	Acknowledgement of Debt and Security - Original
Ex. A6	04.05.2022	Lawyer Notice – Office Copy
Ex. A7	03.05.2022	Statement of Accounts - Original

Defendants Side Witness & Documents - Nil

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