# IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE /COMMERCIAL COURT, UDUPI DISTRICT AT UDUPI

PRESENT

**Sri K.S. Gangannavar,** B.Com., L.L.B., (Spl.).
Principal District Judge, Udupi/
Presiding Officer, Commercial Court, Udupi.

Dated this the 20th day of July, 2026

**Commercial O.S.No.158/2025**

**Plaintiff:**

Canara Bank, with its Head Office at Bangalore Karnataka State inter alia having its Branch office at Malpe Udupi District and Rep. by its
Senior Branch Manager and GPA Holder
Kiran S/o Bhadra Kharvi
Aged about 40 years,
R/at Brahmagiri, Udupi Town.

(By Sri Prasad S.S., Advocate)

**Versus**

**Defendants:**

1) Mithun Kumar S/o Naryan Anchan,
Aged about 40years,
R/at Mathru Krupa, Hanuman Nagar,
Kodavoor Post, Kola, Malpe,
Udupi Town.

2) Wilson C.C. S/o C.K. Chakunni,
Aged about 60 years, Rajesh Nilaya,
Kola, Malpe, Udupi Town

( D.1- Ex parte - )
(D.2- Smt/Kum. Nishmitha Poojary, Advocate)

| | |
|---|---|
| Nature of the suit | Recovery of money |
| Date of institution of suit | 13.11.2025 |

| | |
|---|---|
| Date of service of summons on the defendant | 05.01.2026 on D.1<br>07.01.2026 on D.2 |
| Date of appearance of the defendant | D.1 -Did not appear<br>D.2 – 09.01.2026 |
| Date of filing of the written statement and document | Not Applicable |
| Date of the commencement of recording of the evidence | 24.06.2026 |
| Date on which the judgment was pronounced | 20.07.2026 |
| Total Duration | Year/s: 0 Month/s: 8 Day/s: 8 |

## JUDGMENT

Plaintiff has filed this suit to recover amount of Rs.3,32,172.97 from the defendants along with cost and future interest at the rate of 12.05% p.a., compounded monthly rests from 01.10.2025 till realization so also for sale of hypothecated movables and use of sale proceeds to satisfy the suit claim.

2. According to the plaintiff, for the purpose of business, the defendant No.1 being principal borrower and defendant No.2 being guarantor availed a Term

Loan of Rs.5,00,000/- from erstwhile Syndicate Bank under Account Nos.01339910000965 on 27.03.2019. As per the terms of the loan, defendant agreed to repay the loan in equated monthly installments of Rs.10,755/- each from 30.04.2019 to 31.03.2024 with interest at 9.9% per annum and in default to pay penal interest at 2% per annum. As security, defendant hypothecated scheduled movable properties in favour of the plaintiff bank. In this connection, defendants executed necessary documents.

3. Defendants having availed the loan as above, committed default in repayment thereof. As on 30.09.2025 the defendants are liable to pay Rs.3,32,172.97 to the plaintiff bank. In the meantime, defendant Nos.2 and 1 have also executed letters of revival on 10.02.2022 and 22.12.2022 which are binding on each of them in view of condition No.18 of Hypothecation Agreement and condition No.7 of

Guarantee agreement respectively. Further, last EMI is due on 31.03.2024. Therefore, the suit claim is not barred by limitation.

4. Before filing the suit, the plaintiff bank filed PIMS No.195/2025 dated 11.09.2025 before DLSA, Udupi. Since the defendant failed to turn up for settlement by way of mediation, after obtaining non-starter report dated 24.09.2025 plaintiff bank approached this Court.

5. After filing the suit, defendants were duly served with suit summons. Defendant No.1 did not appear and hence, he was placed ex parte. Defendant No.2 appeared through his counsel but did not file any written statement within stipulated time. Therefore, on 02.05.2026 it is taken as 'WS not filed'.

6. In support of the suit claim, presently serving Branch Manager of the plaintiff bank has filed

affidavit for examination-in-chief as PW.1 and got marked Ex. Ps.1 to 9 and closed the side.

7. Heard. Perused the materials. Points that would arise for consideration are:

(1) Whether the plaintiff is entitled to recover the suit claim amount with interest as prayed?
(2) What Order or decree?

8. The answers to the above points are as under:

| | | |
|---|---|---|
| Point No.1 | : | Partly affirmative |
| Point No.2 | : | As per final order |

for the following:

**REASONS**

**Point No.1** :-

9. Plaintiff bank in support of the suit claim has examined the Branch Manager of the plaintiff bank as PW.1 who in support of oral evidence has marked Ex. P.1 to 9. The oral evidence canvassed by the

affidavit reiterated the plaint averments, wherein it is contended that defendant No.1 availed Term Loan of Rs.5,00,000 on 27.03.2019 offering defendant No.2 as guarantor and executed necessary documents. However, defendants failed to repay the loan as agreed.

10. Plaintiff in support of examination-in-chief, has produced documents at Ex. P.1 to 9.

11. Ex. P.1 is the copy of GPA authorizing PW1 to represent the plaintiff bank in this suit. Documents relating to loan transactions are marked at Ex.P.2 to Ex.P.7.

12. Ex.P2 is the Loan Sanction Letter issued by the plaintiff bank informing the defendant No.1 about the grant of term loan as applied for subject to certain terms and conditions. As per the terms enumerated herein, defendant No.1 was required to repay the loan in 59 equated monthly installments of Rs.10,755/- with

interest at 9.9% per annum. Ex. P.3 is the stamped receipt for having received the proceeds of the loan.

13. Ex.P4 is the Composite Hypothecation Agreement in respect of Term Loan. By way of this document, defendant has hypothecated stock as security for the term loan. Ex. P.5 is the Guarantee Agreement executed by defendant No.2. As averred in the plaint, condition No.18 Ex.P4 and condition No.7 in Ex. P.7 binds both borrower and surety by the acknowledgment of debt/letter of revival executed by any one of them.

14. Ex. P.6 and 7 are letters of revival executed by defendant No.2 and defendant No.1 respectively on 10.02.2022 and 19.12.2022. As already noted above, execution of Acknowledgment of Debt/Letter of Revival by any one of defendant No.1 and 2 binding on both of them.

15. All these documents clearly disclose that defendant has availed suit loan agreeing to specific terms and conditions imposed by the plaintiff bank and having failed to repay the loan as agreed, executed letters of revival extending the period of limitation by three years each time. Loan transaction taken place on 27.03.2019. Before expiry of three years therefrom, defendant No.2 has executed letter of revival as per Ex. P.6 on 10.02.2022. Again on 19.12.2022, defendant No.1 executed another Letter of revival as per Ex. P.7 thus saving the suit claim by another three years. This suit is filed on 13.11.2025 i.e., before expiry of three years from the date of Ex. P.7 i.e., 19.12.2022. Therefore, it can be safely concluded that the suit claim is not barred by limitation.

16. Ex.P8 is the statement of account of suit loan. It shows that as on 30.09.2025 the defendants are liable to pay Rs.3,32,172.97 which itself is the suit

claim amount. In this document, present rate of interest is shown as 10.05% per annum which is the rate claimed in this suit.

17. Ex.P.9 is the Non-Starter Report, which indicates that plaintiff bank has duly complied with Section 12A of Commercial Courts Act before filing this suit.

18. As against this, the defendant No.1 did not appear in spite of due service of suit summons and was placed ex parte. Defendant No.2 though appeared through his counsel, did not file any written statement. Thus, the claim set up by the plaintiff bank remained unchallenged. This Court has no reason to disbelieve the same, having regard to the oral and documentary evidence placed on record. Therefore, there is no impediment to hold that the plaintiff bank has established its claim by producing cogent, oral and

documentary evidence. Consequently, plaintiff bank is entitled for recovery of suit claim.

19. Plaintiff bank has claimed interest to be compounded at monthly rests. Though defendants have not contest the suit, it does not dispense with the Court's obligation to examine whether the relief sought is just and equitable.

20. In the present case, this court feels, compounding of interest at monthly rest would substantially enhance the decretal amount and may result in irrecoverable financial burden upon both the parties. In the absence of any contest by the defendant and there being no material placed before the Court to demonstrate any commercial necessity warranting monthly compounding of interest, it would not be appropriate to grant interest with monthly rests merely because such a stipulation is contained in the contract.

Therefore, this court finds it appropriate to grant interest at agreed rate but to be compounded quarterly.

21. Accordingly, point No.1 is answered partly in the affirmative.

**Point No.2 :-**

22. In view of finding on Point No.1, suit deserves to be decreed. Hence, the following:

**ORDER**

*The Suit is decreed in part with costs.*

*The plaintiff is entitled to recover Rs.3,32,172.97 from the defendant along with cost and future interest at the rate of 10.05% p.a., with quarterly compounded rests from 01.10.2025 till the realization.*

*Plaintiff is entitled to recover the same by sale of hypothecated stock, by attachment and sale of movable and immovable properties of the defendants and has right to proceed against the defendants in person also.*

*Draw decree accordingly.*

(Dictated to the Stenographer Grade-I, transcript revised, corrected and then pronounced in the open court, on this the 20th day of July, 2026)

**(K.S. Gangannavar)**
Principal District Judge/
P.O., Commercial Court, Udupi.

**ANNEXURE**

**List of witnesses examined for the Plaintiff:**

PW.1 - Prasad Nayak

**List of witnesses examined for the Defendants:** None

**List of documents marked for the Plaintiff:**

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|---|---|---|
| Ex. P.1 | - | Copy of GPA |
| Ex. P.2 | - | Loan Sanction Letter |
| Ex. P.3 | - | Stamped Receipt |
| Ex. P.4 | - | Composite Hypothecation Agreement |
| Ex. P.5 | - | Guarantee Agreement |
| Ex. P.6 | - | Letter of revival dated 10.02.2022 |
| Ex. P.7 | - | Letter of revival dated 19.12.2022 |
| Ex. P.8 | - | Statement of account |
| Ex. P.9 | - | Non-Starter Report |

**List of documents marked for the Defendants**: Nil

(K.S. Gangannavar)
Principal District Judge/
P.O. Commercial Court,
Udupi