KAVP300017972025

KOTEPPA KAMBLE

Digitally signed by KOTEPPA KAMBLE
Date: 2026.06.16 16:09:24 +0530

Presented on : 09-10-2025
Registered on : 09-10-2025
Decided on : 10-06-2026
Duration : 0 years, 8 months, 1 days

IN THE COURT OF SENIOR CIVIL JUDGE AND JMFC, AT: INDI

PRESENT: Sri. KOTEPPA KAMBLE
B.Com., LL.B.,
Senior Civil Judge & JMFC,
Indi.

REGULAR APPEAL No.27/2025

Dated this the 10th day of June, 2026

Appellant:
(Ori. Defendant)

1. Adiveppa S/o Guruswamy Kannur,
Age: 70 years, Occ: Agriculture,
R/o Ward No.III, Tamba, Tq: Indi,
Dist: Vijayapur.

(By Sri.J.V.Patil Advocate)

Versus

Respondent:/
(Ori. Plaintiff)

1. The Karnataka Bank Limited,
The companies incorporated under
the Indian Companies Act, 1913,
carrying its banking business having
its Registration & head office Mahaveer
Circle P.B.No.599, Kanakandy,
Mangaluru-575002 R/by the Branch
Manager and GPA Holder
Ranganath S/o Rahavendra Deshpande,
Age: 48 years, Occ Branch Manaager,
Karnataka Bank Limited, Indi,
R/o Indi.

(By Sri.S.S.B., Adv.)

Nature of the appeal	:	Recovery of Money
Judgment against which appeal is preferred.	:	Appeal against the Judgment and decree passed in O.S.No.627/2018 dated 22.08.2025 on the file of learned Civil Judge and JMFC, Indi.
Date of institution	:	12.10.2022
Judgment pronounced on	:	22.08.2025
Total duration	:	Year/s 06 Month/s 08 Day/s 01

=======
=======

JUDGMENT

1. This appeal is preferred by the appellant/defendant being aggrieved by the judgment and decree passed by the learned Civil Judge and JMFC, Indi dated 22.08.2025 in O.S. No.627/2018.

2. For the sake of convenience, the parties to the appeal are referred in the same rank as before the trial court in O.S.No.627/2018.

3. **The brief facts of plaintiff's and defendant's case before trial court are as follows:**

The plaintiff has filed the suit for the recovery of loan amount of Rs.1,59,433/- with future interest at the rate of 12.25% from the date of suit till its realization. It is the case of plaintiff that, plaintiff bank is a company incorporated under Companies Act, having its branch at Indi amongst other branches. It is further case of the plaintiff bank that the defendant had applied for financial assistance for the purpose of agricultural expenses i.e., goods loan and accordingly, the plaintiff bank has sanctioned the loan amount of Rs.1,95,000/- as per sanction order dated 10.02.2016 through the loan account number 3537002500000501. As per the terms of the loan, the defendant has executed various documents like terms and conditions letter, declaration, consent letter, delivery letter, pledged agreement, authorization letter and other required documents. Further, it is the case of the plaintiff that the defendant had agreed to pay the interest on the loan at the rate of 10.25% and also penal interest at 2% PA in the case of default in payment of loan. It is further case of the plaintiff that, as on 18.09.2018, the defendant is due of Rs.1,59,433/-. It is further case of plaintiff that the defendant has fails to repay the balance amount in spite of several requests, reminders and legal notice. The plaintiff has got issued legal notice to the defendant calling upon him to repay the arrears of loan amount on 21.07.2018, but the defendant has not repaid the loan. Therefore, the plaintiff bank is constrained to file the suit for the above reliefs.

4. It could be seen from the records of trial court, the defendant has entered his appearance through his counsel and filed his written statement i*nter-alia,* admitting the sanction of pledge loan Rs. 1,95,000/- on 10.02.2016 on pledging the goods. However, he denied the execution of various documents. He also denied the alleged rate of interest and penal interest. He also denied the outstanding loan amount as claimed by the plaintiff bank. He also denied the issuance of notice. Further, he contended that he has pledged the 57 bags of Turdal with the plaintiff bank in order to secure the loan. The total 57 bags of turdal was about 33 quintal 15 kg. It was stored in the warehouse and the warehouse authority has made valuation at Rs.2,81,775/-. The plaintiff bank has sold out the 57 bags of turdal for Rs.8,000/- per quintal and its value is Rs.2,65,200/- on 03.07.2018. It is also contended that the plaintiff bank has not intimated the defendant regarding the sale of pledged goods. Further, the plaintiff bank has not taken into consideration of the land belongs to the defendant. The defendant neither mortgaged the land nor given the security to the loan. Only the goods loan has been sanctioned. However, the plaintiff bank has filed interim application for attachment of land belongs to the defendant unauthorizedly and he has filed separate objection to the interim application. Under these circumstances, the suit of the plaintiff is not maintainable. The plaintiff bank has not discloses the correct loan transaction. Therefore, the suit is liable to be dismissed and prayed for dismissal of suit.

5. It could be seen from the records of the trial court that, on the basis of rival pleadings of both parties, the trial court framed the following;

I S S U E S

1. Whether the plaintiff-Bank proves that the defendant has taken goods loan from plaintiff bank and defendant has executed

the documents in favour of the plaintiff bank agreed to pay interest at the rate of 10.25% p.a.?

2. Whether the plaintiff bank proves that, they are entitled to recover Rs.1,59,433/- with interest at the rate of 12.25% p.a. from the plaintiff?
3. Whether defendant proves that, plaintiff-Bank has sold his pledged Tur of 57 bags kept in warehouse for Rs.2,65,200/- and recovered loan amount??
4. Whether the plaintiff is entitled for the relief as prayed for?
5. What order or decree?

6. The plaintiff bank in order to prove its case, the managers were got examined as PW-1 and PW-2. The produced in all 24 documents which are marked at Ex.P-1 to 24. On the contrary the defendant got examined himself as DW-1. However, no document was filed.

7. After hearing the arguments of both sides, the learned trial court answered Issue No.1 and 2 in the affirmative, Issue

No.3 in the negative, Issue No.4 partly in the affirmative and ultimately decreed the suit of the plaintiff. The defendant being aggrieved by the judgment and decree of the learned trial court, preferred this appeal on the following grounds.

1. The judgment and decree under appeal are contrary to law and facts and erroneous, which is to be deserves to be set aside.
2. The approach of the learned trial court is mechanical one which not judicious resulted in miscarriage of justice.
3. Though the defendant has not disputed the loan transaction, but inadvertently framed the issue No.1. Further, it is contended that the goods pledged was worth of Rs.2,65,500/-. The plaintiff's bank has sold the 57 bags of tur pledged by defendant about 3315 kg at the rate of Rs.8000/- then the plaintiff bank itself has to pay the surplus amount to the defendant. An amount of Rs.39,525/- with interest. However, the trial court has not appreciated the documentary evidence in a proper prospective manner and mechanically decreed the suit.

4. The trial court committed serious error in recording negative findings on Issue No.3. The reasoning's and observations made by the trial court is deserves to be set-aside.
5. The mechanical approach of the learned trial court is resulted in miscarriage of justice which is lack of reasoning's and valid conclusion. Therefore, interference by this court is required.

Amongst other grounds, appellant/defendant sought for set aside the judgment and decree of the trial court. Further, he sought the direction to the plaintiff bank to pay the surplus amount by making afresh calculation.

8. After filing the appeal, this court issued notice to the respondent. In spite of due service of notice, the respondent has not entered its appearance.

9. Heard the arguments of counsel for appellant. Perused the records. The following points that would arise for my consideration is-

1. Whether the judgment and decree of the trial court is opposed to law or on facts and

materials on records and calls for interference of this court?

2. What order?

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

Point No.1	:	In the Negative
Point No.2	:	As per final order for the following:

<u>R E A S O N S</u>

11. **<u>Point No.1</u>** The plaintiff bank has filed the suit before the learned trial court for the relief of recovery of arrears of loan amount of Rs.1,59,433/-. The plaintiff bank in order to prove its case got examined its manager by name Pavan S/o Vijay Agnihotri and Naganagouda S/o Shankargouda Doddagoudars as PW-1 and PW-2. They filed their affidavits in lieu of examination in chief, reiterating the plaint averments. The plaintiff bank produced in all 24 documents which are marked at Ex.P-1 to 24. The document Ex.P-1 is Credit sanction intimation dated 10.02.2016. The document Ex.P-2 is loan sanction order. The document Ex.P-3 is declaration submitted by defendant. The document Ex.P-4 is credit facility sanction i.e., consent letter from the borrower i.e., defendant. The document Ex.P-5 is promissory note. The document Ex.P-6 is pledged letter for goods pledged. The document Ex.P-7 is blank requisition for release of goods. The document Ex.P-8 is declaration submitted by the defendant. The document Ex.P-9 is Irrevocable letter of authorization issued by the defendant to the manager Karnataka State Warehousing Corporation, Indi(Hereinafter, referred to as KSWCI for brevity). The document Ex.P-10 is Lien letter issued by the plaintiff's bank to the manager KSWCI. The document Ex.P-11 is valuation certificate. The document Ex.P-12 is receipt issued by KSWCI. The document Ex.P-13 is warehouse receipt stock auction. The document Ex.P-14 to 16 are invoices. The document Ex.P-17 is Form No.24 Khata Utari. The document Ex.P-18 is ROR, Ex.P-19 is legal notice, Ex.P-20 and 21 are the postal receipt and postal acknowledgment. The document Ex.P-22 is the account statement. The document Ex.P-23 is paper publication and Ex.P-24 is the authorization letter.

12. On the contrary, the defendant got examined himself as DW-1, reiterating the written statement averments in his chief examination. He has not produced any documents.

13. For having regards to the materials available on record, there is no dispute with regards to pledging the 57 bags of red gram goods i.e., Turdal which was valued at the time of pledge Rs.2,65,200/- at the time of pledge and an amount of Rs.1,95,000/- pledged loan was obtained by the defendant on 10.02.2016. As per the documents, Ex.P-1 to 6 discloses that the defendant has applied for pledged loan and availed loan of Rs.1,95,000. In all these documents, the signature of the defendant is appearing. The loan was obtained for an interest at the rate of 10.25% minimum and in case of default interest at the rate of 3%, which is mentioned at Ex.P-5 and 6.

14. The only grievance of the defendant is that, at the time of pledge, the pledged goods which was worth Rs.2,65,200/- as per the estimation submitted by the KSWCI, as per Ex.P-11, and as per the account statement, the plaintiff bank has sold only for an amount of Rs.1,15,470/- for meager amount without giving notice to defendant. Therefore, the act of plaintiff bank is erroneous and again the plaintiff bank filed the suit for recovery of alleged arrears of loan. A perusal of document Ex.P-6 pledge letter i.e., pledge agreement at para No.2, the agreed rate of interest is 10.25% per annum for outstanding balance. Further, at para No.5, it is categorically agreed and mentioned that, the bank isnot responsible for any loss from or through any proper or auctioneer employed in the sale of said property, goods, securities, etc. Furthermore, as per the document Ex.P-9, the defendant at para No.5, he has agreed and consented for sale of pledged goods by way of public auction. The plaintiff bank in order to sell the pledged goods by way of public auction gave public notice on 27.06.2018 by way of paper publication which could be seen from the Ex.P-23. Thereafter, the plaintiff bank has sold the pledged goods by way of public auction and recovered the part of the due amount of Rs.1,15,470/- on

09.07.2018. Thereafter, issued legal notice as per the Ex.P-19 requesting the defendant to repay the balance loan amount. Public auctioneer, the pledged goods, the plaintiff bank has lien notice to the manager, KSWCI on 09.02.2016. Thereafter, sold the pledged goods in a public auction. As per section 17 of Contract Act, bankers may in the absence of a contract to the contrary, retain the pledged goods as a security for a general balance of account, any goods bailed to him, but no other persons have a right to retain as a security for such balance, goods bailed to them, unless there is an express contract to that effect. As considered earlier, in between the plaintiff bank and the defendant there is an agreement as per Ex.P-6 pledged agreement. The defendant himself executed the irrevocable authorization to auction sell the pledged goods by the plaintiff bank in a public auction without his consent. Therefore, when the defendant himself has authorized the plaintiff bank to sell the goods pledged without his consent, then question of issuing notice to defendant before public auction sale of goods pledged does not arise. However, the plaintiff bank has given notice by way of paper publication as per Ex.P-23. Further, as per Section 176 of The Contract Act, the plaintiff bank being the Pawnee and the defendant being the Pawnor, if he make default in payment of the debt in respect of which the goods were pledged, the pawnee i.e., plaintiff bank may bring the suit against the pawnor defendant upon the debt or promise and retain the goods pledged as a collateral security or he may sell the thing pledged, on giving the pawnor reasonable notice of the sale and use the consideration amount for the loan amount. Therefore, as per the right conferred under Sec.176 of the Contract Act, by following the procedure, the plaintiff bank has sold the goods pledged by the defendant in a public auction and used the said amount for the loan amount. Furthermore, as per the documents produced by the plaintiff bank he has paid expenses with regards to warehouse and other charges. The goods pledged in the year 2016 was valued at Rs.2,65,200/-, but there is no materials to show that, as on the date of auction, the turdal was same rate in the year 2018 i.e., on the date of auction. If really, such rate was there, then what prevented the defendant to get the documents from the concerned APMC in order to establish the rate was higher than the auction sale. But, the defendant has not placed such documents, in the absence of such documents, it is difficult to hold that the plaintiff bank has sold the goods pledged for lessor amount. Furthermore, the plaintiff bank has sold goods in public auction, then the auctioner by following the procedure has auctioned the goods pledged. As per the terms of pledged document Ex.P-6, the plaintiff bank is not liable to any loss. Therefore, considering all the materials available on record, this court is of the considered opinion that the trial court rightly appreciated the available materials and come to the right conclusion. The conclusion and findings of trial court is not perverse, capricious and interference by this court is not required.

With these observations, this court answered Point No.1 in the Negative.

15. **<u>Point No.2:</u>** In view of my findings on above point, this point is answered for the following:

<u>O R D E R</u>

The regular appeal preferred by the appellant/defendant under Sec.96 of CPC is hereby **DISMISSED**.

The judgment and decree passed by the learned Civil Judge and JMFC court, Indi in O.S.No.627/2018 dated 22.08.2025 is hereby confirmed.

Draw decree accordingly.

Return the TCR to the Trial Court along with a copy of the Judgment.

(Dictated to the stenographer, transcribed and typed by him, and corrected and signed by me, then pronounced in the open Court on the 10th day of June, 2026)

(KOTEPPA KAMBLE),
Sr. Civil Judge & JMFC,
Indi.