KADW200036682022

IN THE COURT OF THE I ADDITIONAL SENIOR CIVIL JUDGE & J.M.F.C., HUBBALLI

Present:
Sri. Ganapathi Prashanth M.,
B.A.LL.B.,
I Addl. Senior Civil Judge & J.M.F.C., Hubballi.

O.S. No.418/2022

Dated this the 21st day of June, 2023

Plaintiff/s : ICICI Bank Ltd, a body corporate incorporated and registered under the Indian Companies Act 1956 and licensed as a Bank under the Banking Regulation Act 1949 having Registered Office at ICICI Bank Limited, ICICI Bank Towers, Near Chakli Circle, Old Padra Road, Vadodara-390007, and having its corporate office at ICICI Bank Towers, BandraKurla Complex, Bandra (East), Mumbai-400 051 and a Branch office at ICICI Bank Ltd., RAPG, Ground Floor, Eurekha Junction, T.B. Road, Deshpande Nagar, Hubballi-580 029, through Authorized Representative Mr. Naveen Hooli S/o Basavaraj, Age: 37 years.

(By Sri. S.B. Muttalli, Advocate)

Vs.

Defendant/s : 1. Vishal Dattanand Vernekar S/o Dattanand, Age:32 years, #121, Sambhaji Road Khasbag, Near Patson Showroom, Tq:& Dist:Belgaum, Karnataka-59003.

Also at:
Vishal Dattanand Vernekar S/o Dattanand, Age:32 years, #7A, Todur, Uttara Kannada, Near Post Office, Todur, Uttar Kannada, Karnataka-581324.

2. Abhishek D Vernekar S/o Dattanand, Age:28 years, #21, Sambhaji Road Khasbag, Near Patson Showroom, Tq: & Dist:Belgaum, Karnataka-59003.

(Exparte,)

Date of institution of the suit.	:	17.10.2022
Nature of the suit	:	Suit for recovery of money.
Date of commencement of the evidence.		14.06.2023
Date on which the judgment was pronounced.	:	21.06.2023
Duration of the suit.	:	Year/s Month/s Day/s
		00 08 04

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JUDGMENT

This suit is filed by the plaintiff under Order 7 Rule 1 and 2 of C.P.C. seeking the recovery of money of Rs.11,96,089/- with interest thereon at the agreed rate.

2. The case of the plaintiff in brief is that, the plaintiff is a public Ltd., company and Bank and defendant No.1 as applicant

and defendant No.2 as co-applicant have obtained loan of Rs.13,91,000/- for purchase of Car scheduled on 26.08.2020, agreeing to repay the same in 60 EMI of Rs.29,008/- each commencing from 05.10.2020 to 05.09.2025 as per the schedule of repayment. The same was granted, but defendant only paid 17 installments and committed default and and hence, this suit and prayed to decree the suit.

3. In spite of service of suit summons, the defendants have remained exparte.

4. The plaintiff examined its authorized representative as P.W.1 and got marked Ex.P.1 to P.12 and closed its side.

5. Heard, perused the pleadings, evidence and materials placed on record.

6. The points for consideration are;

1. Whether the plaintiff proves that the defendants are due to the suit claimed amount as alleged ?
2. Whether the plaintiff is entitled for interest at the rate as claimed ?
3. Whether the plaintiff is entitled for the suit claimed reliefs ?
4. What order or decree ?

7. The findings on the above points are as follows:-

Point No.1 to 3	:	In the Affirmative,
Point No.4	:	As per the final order, For the following:-

REASONS

8. **Point No.1:** It is relevant to note that the plaintiff has relied upon the Ex.P.1 Power of Attorney, Ex.P.2 and P.3 are the Loan applications, Ex.P.4 is the credit facility application, Ex.P.5 is the Hypothecation deed, Ex.P.6 is the Key fact Statement, Ex.P.7 is the notice, Ex.P.8 and P.9 are the documents pertaining to issue of notice, Ex.P.10 is the notice, Ex.P.11 is the statement of account relating to the suit claim. The said documents have remained uncontroverted. There is no reason to disbelieve the said documents. Moreover, the Ex.P.12 is the certificate issued under Sec.2-A of the Bankers Evidence Act, 1891 is noted. The said documents of the bank thus got presumptive value under law. Therefore, the documents, including Ex.P.11 clearly establish the suit claim to the plaintiff by the defendants. Hence, as the evidence of the P.W.1 has remained uncontroverted, the plaintiff has proved the point No.1. Accordingly, **point No.1 is answered in the affirmative**.

9. **<u>Point No.2:</u>** Regarding the interest it is relevant to note that the plaintiff is a Banking Institution and as per Sec.21A of the Banking Regulation Act,1949 the interest at the agreed rate shall be granted. The said provision of law reads as follows:

> *<u>21A. Rates of interest charged by banking companies not to be subject to scrutiny by courts</u>:*
>
> *Notwithstanding anything contained in the Usurious Loans Act, 1918 (10 of 1918), or any other law relating to indebtedness in force in any State, a transaction between a banking company and its debtor shall not be re-opened by any court on the ground that the rate of interest charged by the banking company in respect of such transaction is excessive.*

10. Hence, this Court has no discretion to reduce the rate of interest. Therefore, the plaintiff is entitled for interest at the agreed rate. Hence, the above **point No.2 is answered in the affirmative**.

11. **<u>Point No.3:</u>** In view of the finding of point Nos.1 and 2, the plaintiff is entitled for the suit claimed relief against defendant. Hence, **point No.3 is answered in the affirmative**.

12. **<u>Point No.4:</u>** In view of finding on point Nos.1 to 3, this court proceeds to pass the following:

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

The suit of the plaintiff is hereby decreed with costs as prayed for.

The defendants are directed to pay to the plaintiff forthwith Rs.11,96,089/- along with interest thereon at 9.10% p.a. from the date of suit till realization, failing which, the plaintiff shall be entitled to recover the same from the defendants, through the process of court, at the cost of the defendants.

Draw decree accordingly.

(Dictated to the Stenographer, transcribed and computerized by her, script corrected directly on computer and then pronounced by me in the Open Court on this the **21st day of June, 2023**)

(Ganapathi Prashanth M.,)
I Addl. Senior Civil Judge & J.M.F.C.
Hubballi.

ANNEXURE

1. List of witnesses examined on behalf of Plaintiff:

P.W.1 : Naveen Hooli S/o Basavaraj.

2.List of documents exhibited on behalf of Plaintiffs:

Ex.P.1	:	Power of Attorney.
Ex.P.2 & P.3	:	Loan applications.
Ex.P.4	:	Credit facility application.
Ex.P.5	:	Hypothecation Deed.
Ex.P.6	:	Key Fact Statement.
Ex.P.7	:	Notice.
Ex.P.8 & P.9		Document pertaining to issue of notice.
Ex.P.10	:	Notice.
Ex.P11	:	Statement of Account.
Ex.P.12	:	Certificate.

3.List of witnesses examined on behalf of Defendants:

NIL

4.List of documents exhibited on behalf of Defendants:

NIL

(Ganapathi Prashanth M.,)
I Addl. Senior Civil Judge & J.M.F.C.
Hubballi.