Dispute No. 147/2020.
Dispute Filed On : 17/02/2020
Dispute Register On : 18/02/2020
Dispute Decided On : 20/02/2021
Duration : Y. M. Days
01 00 01

IN THE COURT OF JUDGE, CO-OPERATIVE COURT AT AKOLA
(Presided over by Shri B.S. Lakhote)

The Sundarlal Saoji Urban Co-op.Bank
Ltd. Jintur, branch Near Main post office
Karanja, Tq- Karanja(Lad) Dist- Washim
Throgh its Branch Manager, Shri. Vinayak
Vishwanath Awaghan,Age-51 Occ- Service
R/o Near Tahshil Karyalaya, Near Main
Post office Karanja (Lad) Tq- Karanja(Lad)
Dist- Washim ………… …....……… **Disputant.**

---- V/s -----

1 Dr. Ajay Punlikrao Lakade
Age-37 Year,Occ-Medical and
Agriculturist

2) Dr. Pallavi Ajay Lakade
age- 31 year Occ-Medical
and Agriculturist

3) Punlikrao Vitthalrao Lakde
Age- 61 year Occ- Agriculturist

4) Nanda Punlikrao Lakde
Age-54 year Occ-Agriculturist
All R/o C/o Shri. Samrat Dongardive
Nagarparishad colony, Karanja(Lad)
Tq- Kanja (Lad) Dist- Washim

5) Harish Dharmdas Radhwani
Age- Adult Occ-Business
R/o R.S.Fashion, Main Road
Karanja Lad, Tq- Karnja, Dist-Washim

6) Bhimrao Vitthalrao Lakde
Age- Adult Occ-Agriculturist

7) Gajanan Vitthalrao Lakde

Age-53 Occ- Agriculturist

8) Mangla Gajanan Lakde

Age-46 Occ- Agriculturist

9) Akshay Gajanan Lakde

Age-26 Occ- Ariculturist

10) Gaurav Gajanan Lakde
Age- 24 Occ-Agriculturist

11) Vitthalrao Pandurang Lakde
Age- 81 Occ- Agriculturist
All R/o At, Post- Shaha
Tq- Karanja (Lad), Dist- Washim ……..……....…… **Opponents**.

<u>Dispute For Recovery of Rs.1,59,79,527/-.</u>

Adv. A. N. Chauhan for Disputant.

Opponents Exparte.

J U D G M E N T

Brief facts of the dispute are as follows.

1) The Disputant Bank registered under the M.C.S. Act. The opponents are member of the disputant bank. The opponent no.1 and 2 applied for term loan on 20-11-2017 at karanja Branch for amount Rs.1,50,00,000/- and opponent no.3 to 11 ready to stood as guarantors for the said loan.

2) The disputant bank sanction loan of Rs.1,50,00,000/- on 28-12-2017 and on 5-1-2018 the opponents had executed necessary documents, that is

agreement promissory note, declaration as per rule 65, letter of lien and set off, letter of waiver and letter of guarantee.

3) The opponents agreed to repay loan amount with interest @ 14 % p.a. and it was also agreed that if there is nay breach, in that case the opponents will be liable to pay penal interest @ 2% . they also agreed to pay interest as and when decided by the disputant.

4) The disputant maintained the computerized account in regular course of business and certificate to that effect is filed. Hence as per statement of account an amount of Rs.1,59,79,527/- including the interest up to 31-10-2019 is due. It was the duty of the opponents to repay the loan amount as agreed but they failed to repay the amount and hence demand notice issued through Adv.Aavesh N, Chuahan on 2-11-2019 to the opponents and demanded the outstanding amount. The said notice duly served on all opponents, but they failed to complied the notice and hence the disputant passed the resolution to filed the dispute against the opponents.

5) The summons were issued to the opponents and the summons are duly served to them, but none of them appeared and hence the dispute proceed exparte against them .

In view of the pleading of the parties following issues frame and my finding with reasons are as follows.

POINT	**FINDING**
1) Whether disputant proves that opponents are jointly &severally liable for Rs.1,59,79,527/- with	

16% .p.a. from 1-11-2019 till realization ?	Positive
2) What order & award ?	As per final order

REASONS

6) **As to Issue No.1 and 2 :**

It case of disputant bank that opponent no. 1 and 2 avail term loan facility of Rs.1,50,00,000/- and for that the opponent no.3 to 11 are the guarantors to the said loan. The opponent no.1 and 2 failed to repay the loan obtained by them as per agreement and claim amount is outstanding against them.

The opponent are duly served summons but none of them appeared and resist the dispute. The burden lies on the disputant to prove its case.

7) The disputant in order to established its case filed affidavit of its authorized person shri. Vinayak Vishwanath Awaghan below Exh.17. The dispuiatnt in support of the oral evidence filed documentary evidence below Ex.21 to 56. The document Ex.56 resolution no.27.2 dated 28-13-2019 indicate that the witness as a branch manager of karanja Lad branch of disputant bank authorized to lead evidence for disputant bank.The disputant witness on oath stated the same fact as stated in the dispute. The documents loan application, sanction letter, loan agreement , promissory note, form K letter of lien and set off, letter of waiver and letter of guarantee account statement, notice, certificate under section 65-B of evidence Act etc. produce on record and Ex.22 sanction letter indicate that the loan amount Rs.1,50,00,000/- sanction to the opponent no.1 and 2 with 14% and said loan was to be repay quarterly Rs.6,60,000/- . It also reflect from the documents

Ex.23 to 25 agreement and Ex.30 to 32 Guarantee deed that the opponent no.3 to 11 are the guarantors to the loan of the opponent no.1 and 2 and these documents bear their signature. The documents also shows that they are the members of the bank. None of the opponents contest the dispute. The documents filed on record are trustworthy and reliable . The disputant filed copies of the documents but the documents are verified from the original, so there would not be any doubt about the documents and none of them challenge the documents. hence I held that the opponent no.1 and 2 obtained term loan Rs.1,50,00,000/- and for that the opponents no.3 to11 are the guarantors.

8) The disputant claim amount Rs.1,59,79,527/- and to prove the said amount filed account statement below Ex.36 with certificate under section 56-B of evidence Act. It is computerized and the entries taken in the account statement are proper as taken during course of its business. The account statement demonstrate that as on 31-10-2019 an amount Rs.1,59,79,527/- (one crore fifty nine lakh seventy nine thousand five hundred twenty seven) is outstanding toward the opponent no.1 and 2. None of them challenge the account statement. The account statement duly affixed by certificate under section 65-B of Indian Evidence Act U/s 2A of Banker Books Evidence Act Ex.52 and 53 respectively. The account statement also admissible under section 40 of the MCS Act .Hence I held that the amount Rs.1,59,79,527/- is outstanding against the opponent no.1 and 2 and the opponent no.3 to 11 being guarantors are also liable for the said amount. The disputant bank on

2-11-2019 to the opponents , they have received the notices but none of them neither paid the amount nor given reply to the notice. The copy of notice is below Ex.37 and postal receipts and acknowledgement are below Ex.38 to 51. It mean that they have admitted the outstanding amount claim by the disputant bank.

9) The disputant claim amount with interest 16% p.a. including the 14% simple interest and 2% penal interest. The documents promissory note and agreement shows that the opponents agreed for the said rate of interest. Hence the disputant is entitled for the 16% p.a. interest.

Considering the above reasons I come to conclusion that disputant prove his case & I passed according order.

O R D E R

(1) The Dispute is hereby allowed with costs.

(2) The opponents shall jointly and severally and pay Rs.1,59,79,527/- (one Crore Fifty Nine Lakh Seventy Nine Thousand Five Hundred Twenty Seven) with interest @ 16% p.a. on amount Rs.1,50,00,000/- from 01/11/2019 till realization.

(3) Award be drawn accordingly.

Sd/-

At Akola
Dated : 20/02/2021

(Shri. B.S. Lakhote)
Judge,
Co-operative Court, Akola.