MHNS130001932020	Presented on	:	25.02.2020		
	Registered on	:	25.02.2020		
	Decided on	:	16.07.2026		
	Duration	:	6Y	4M	21D

IN THE COURT OF 2ND JT. CIVIL JUDGE JUNIOR DIVISION, PIMPALGAON, TQ. NIPHAD, DIST. NASHIK

(PRESIDED OVER BY V.W. KHENDAD)

Reg. Civil Suit No. 22/2020 **Exh. No. 27/A**

I.D.B.I Bank Ltd.,
Head Office, I.D.B.I. Tower,
W.T.C Complex, Mumbai, 400 005,
It's one Branch at Pimpalgaon (B)
Tq. Niphad, Dist. Nashik,
Through its Branch Manager,
Shri. Shivaji Ashok Kavhat **...Plaintiff**

VERSUS

1. **Shri. Sharad Murlidhar Gaikwad,**
   Age: 57 yrs., Occ: Agri.
2. **Shri. Sharad Balasaheb Shirsat,**
   Age: 52 Occ: - Agri,
3. **Shri. Kailash Vishwanath Gaikwad**,
   Age: 50 Occ: - Agri
   All R/o. Bahaduri,
   Tal. Chandwad, Dist. Nashik. **...Defendant**

SUIT FOR RECOVERY OF AMOUNT RS. 4,61,020/-

Appearances -
The Ld. Advocate for the plaintiff : Adv. Indrabhan Rayate through Adv S.N Kochar.
for Defendant: **Ex-parte**

JUDGMENT

(Delivered On 16.07.2026)

The plaintiff has instituted the present suit for recovery of amount of Rs. 4,61,020/-.

Plaintiff's case, in brief, as follows :

02] The plaintiff is the nationalized bank. Its head office is located in I.D.B.I. Tower, W.T.C Complex, Mumbai. It has it's one branch in Pimpalgaon (B), Tal- Niphad, Dist. Nashik. The defendant no.1 was in need crop loan for agriculture purpose. The plaintiff bank on 27/10/2014 sanctioned crop loan of Rs.4,65,000/-(Rupees Four Lacs Sixty-Five Thousand Only) to defendant no.1. By accepting and acknowledging terms and conditions issued by plaintiff bank, the defendant no.1 executed all the relevant documents towards the security including demand promissory note, Hypothecation agreement, Letter of guarantee and Declaration Certificate for the said loan on 27/10/2014 and withdrawn amount sanctioned to him towards loan. Defendant no.2 and 3 are guarantors to this agreement.

03] The agreed rate of interest for the said loan was 10.25 % p.a. it was also agreed that if defendant failed to pay said loan in decide period of time, rate of interest on said amount will increase with 2.00 %. Loan was to be repaid within 1 year from the date of agreement. Plaintiff Bank had availed loan for the period of 5 years. As per the term and conditions defendant has to repay the loan amount through yearly installment. The defendant failed to make payment to the plaintiff Bank as per the terms and conditions agreed upon. Plaintiff bank informed and instructed defendant time to time regarding repayment of the loan. However, the defendant avoided repayment of loan amount.

04] After deducting the recoveries made by the plaintiff Bank in connection with the said loan, the total outstanding amount due from defendant as of 30/11/2019 is Rs.4,61,020/- comprising a principal amount of Rs.4,52,292/- and penal interest of Rs.8725/-, in addition to further interest accruing thereon from 30/11/2019. Hence, the plaintiff filed the present suit for recovery of the loan amount and interest thereon.

05] The suit summons was issued to defendants for settlement of issue. They are duly served on 04/01/2022 as per bailiff report at Exh.6. As they failed to appear and answer the claim, suit proceeded ex-parte against them vide order passed below Exh.1 on 03/10/2022. As authorised person of plaintiff Bank i.e., Shri. Shivaji Ashok Kavhat transferred, authority letter from Plaintiff Bank to represent it in the suit is issued in the name of Santosh Sattu Koli vide Bank's authority letter at Exh.19. Thereafter, Plaintiff Bank filed its affidavit in lieu of examination in chief At Exh.10 through authorized person Santosh Sattu Koli Bank Assistant General Manager. He has confirmed and admitted the contents of the affidavit by entering into the witness box. Defendants failed to cross examine the plaintiff. Hence, suit proceed uncontested.

06] Heard the Ld. Advocate Shri.Saurabh Kochar for the plaintiff Bank.

07] Considering the record, documents filed by the plaintiff Bank and argument advanced by Ld. Adv. Shri. appearing for plaintiff, following points arise for my determination and I have recorded finding thereon as follows:

SR.NO	POINTS FOR DETERMINATION	FINDINGS
1.	Whether the plaintiff Bank proves that defendant has availed loan of Rs.4,61,020/-?	**YES.**
2.	Whether the plaintiff Bank proves that they are entitled to recover amount of Rs.4,61,020/ from defendants?	**YES.**
3.	Is plaintiff Bank entitled to recover the amount of Rs. 4,61,020/ with future interest from defendant, if yes at what rate?	**Yes, at the rate of 6 % p.a.**
4.	What order and decree?	**As per final order**

:: REASONS::

08] In support of the suit claim the Bank Assistant General Manager Shri. Santosh Sattu Koli is examined as PW-1 at Exh.10. Apart from this the Plaintiff Bank has also relied upon documentary evidence i.e., Demand promissory note at Exh.13, Agreement of Hypothecation at Exh.14, Letter of Guarantee at Exh.15, Declaration at Exh.16, Revival Letters at Exh.17 and 18, office copy of demand legal notice dtd.19/12/2019 at Exh.20, acknowledgment of that notice at Exh.21, and Loan account extract along with Certificate U/Sec2A (c) of Banker's Book of Evidence Act, 1891 at Exh. 22 and 23. Plaintiff Bank has closed evidence by filing pursis at Exh. 24. On the other hand, defendant has not produced any oral or documentary evidence on record.

9] Before considering the merits of the plaintiff's claim, it is necessary to examine whether the suit is within limitation. The loan in question was sanctioned on 27.10.2014. The present suit came to be instituted on 25.02.2020. The plaintiff has produced on record the Revival Letters dated 24/06/2015 at Exh.17 and dated 12/06/2018 at Exh. 18, executed by defendant No.1. A perusal of these documents reveals that defendant No.1, in writing and under his signature, acknowledged his subsisting liability in respect of the loan account and agreed that the securities furnished by him would continue to remain operative. The said acknowledgments were made before expiry of the then subsisting period of limitation and, therefore, satisfy the requirements of Section 18 of the Limitation Act, 1963.

10] Under Sec. 18 of the Limitation Act, 1963, where an acknowledgment of liability is made in writing and signed by the party against whom the right is claimed before the expiration of the prescribed period of limitation, a fresh period of limitation is to be computed from the date of such acknowledgment. Accordingly, the acknowledgment dated 24.06.2015 gave rise to a fresh period of limitation, and before expiry thereof, defendant No.1 executed a further Revival Letter on 12.06.2018, thereby giving rise to yet another fresh period of limitation. The suit is instituted on 25.02.2020, i.e., within three years from 12.06.2018, is within the prescribed period of limitation. I, therefore, hold that the suit is within limitation.

11] A valid acknowledgment of liability made before expiration of the prescribed period gives rise to a fresh period of limitation computed from the date of such acknowledgment. Consequently, a fresh period of limitation commenced from the dates of the revival letters. Since the present suit has been instituted within the extended period of limitation reckoned from the last valid acknowledgment, it cannot be said to be barred by limitation. I, therefore, hold that the suit is filed within the prescribed period of limitation.

AS TO POINT NOS.1 to 3: -

12] As Point no.1 to 3 are interconnected to each other, they are taken together to avoid repetition of facts. Plaintiff Bank by filing its evidence affidavit at Exh.10 through its authorized person Santosh Sattu Koli examined him as PW-1. He testified that he accepts and acknowledges the contents of his affidavit. As per his oral evidence he is aware and having full knowledge about the transaction. The testimony of PW-1 is corroborated by Exhs.13 to 23. As per his evidence, defendant no.1 had availed loan from plaintiff bank. For that, he has relied upon Demand promissory note at Exh.13, Agreement of Hypothecation at Exh.14, Letter of Guarantee at Exh.15.

13] On perusal of these documents, it reveals that, on demand of Sharad Murlidhar Gaikwad i.e., defendant no.1, jointly and severally promised to pay IDBI Bank (plaintiff) sum of Rs. 4,65,000/- (Rupees Four lakh sixty-Five Thousand) together with interest i.e., BBR rate @ 10.25 % p.a for amount above 3 lacs. Further, Agreement of hypothecation dtd 26/09/2014 also at Exh.14 contains signature of defendant no.1 as borrower. It also appears that, defendant no.1 has executed declaration Vide Exh.16 in favour of the Plaintiff Bank. All those documents bear his signatures.

14] Letter of Guarantee / Guarantee deed dtd. 27/10/2014 executed by defendant Nos.2 and 3 at Exh.15 shows that defendant Nos.2 and 3 voluntarily agreed to stand as guarantors for due repayment of the crop loan advanced by the plaintiff Bank to defendant No.1. The document bears their signatures and evidences their undertaking to discharge the liability of the principal borrower in the event of his default. There is nothing on record to show that the execution of the guarantee deed was obtained by fraud, coercion or misrepresentation, nor have the defendants appeared before the Court to dispute its execution or enforceability. Consequently, the execution of the guarantee deed stands duly proved.

15] According to Sec.126 of the Indian Contract Act, 1872, "a contract of guarantee is a contract to perform the promise or discharge the liability of a third person in case of his default." Further, Sec.128 of the Indian Contract Act, 1872 provides that the liability of the surety is co-extensive with that of the principal debtor, unless it is otherwise provided by the contract. Thus, in the absence of any contractual stipulation limiting the liability of defendant Nos.2 and 3, their liability is co-extensive with that of defendant No.1. Therefore, upon default committed by defendant No.1 in repayment of the loan, defendant Nos.2 and 3 also became jointly and severally liable to satisfy the outstanding dues payable to the plaintiff Bank.

16] Revival letters at Exh.17 and 18 shows that defendant had assured to the Plaintiff Bank, through it that he acknowledged and confirmed that he would be liable to the plaintiff Bank for the payment of all the outstandings in respect of the loans granted and the said hypothecation agreement shall remain in full force with all relative securities, agreements and obligations. It also bears his signature. Lastly the plaintiff bank has produced account extract of defendant no.1 at Exh.22. An account extract of defendant no.1 shows total due amount against defendants is Rs.04,52,295/- as described above in para no.4 The account extract is certified U/Sec.2A(c) of the banker's book of Evidence Act, 1891 as amended and Certificate U/Sec.65-B of the Indian Evidence Act at Exh.23, therefore it is admissible.

17] The suit is filed on 25/02/2020. Defendants have not challenged the oral or documentary evidence given by the Plaintiff Bank. They have not deposed on oath before the court and challenged the evidence of Plaintiff bank. Since the defendants have neither contested the suit nor adduced any evidence to rebut the plaintiff's case, the oral testimony of PW-1 and the documentary evidence produced at Exh.15 remain unchallenged and inspire confidence. Thus, it is proved that amount of RS. 4,61,020/- (Rupees Four Lacs Sixty-One Thousand Twenty Only) has been due from the defendant no.1 on 25/02/2020 and in the absence of any evidence showing discharge of surety the guarantors i.e., defendant Nos.2 and 3 continue to remain liable jointly and severally along with defendant No.1 to pay the decretal amount to the plaintiff.

18] Considering all above documentary evidence and oral evidence adduced on behalf of the Plaintiff Bank it reveals that, defendant no.1 availed loan from them. He executed above documents toward the security. As the matter proceed ex-parte, the evidence of the Plaintiff Bank remained unchallenged. The Plaintiff is bank in which public funds are deposited. The plaintiff has established that the defendant no.1 availed loan. Considering all these aspects, the plaintiff has proved their claim against the defendants and hence, they are jointly and severally liable for the loan amount.

19] Further, the Plaintiff Bank has claimed for future interest on the sum adjudged from the date of filing of the suit till realization of the amount @ 10.25%. In commercial transaction commercial rate of interest is permissible. To support the view, that the loan was utilised for commercial purpose, the learned advocate for the plaintiff also failed to bring to my notice, any part of the pleadings or evidence, so as to label this debt, as commercial one, to grant contractual rate of interest. Thus, the plaintiff bank is not entitled to claim interest at 10.25%., being the contractual rate of interest, from the date of suit, till the decree amount is discharged.

20] In present case the Plaintiff Bank has proved that defendant No.1 had availed a crop loan of Rs.4,65,000/- from the plaintiff Bank and that defendant Nos.2 and 3 executed deeds of guarantee in respect thereof. It is proved that defendant No.1 had availed a crop loan for the purpose of agriculture against the security of immovable property. Thus, this amount cannot be brought under the shadow of commercial transaction. By going through the pleadings as well as the evidence, I am of the considered view, that the loan transaction should come within the umbrella of agricultural loan, not warranting contractual rate of interest, and thereby reducing the rate of interest by applying section 34 Code of Civil Procedure,1908. In the light of the above observation, concluding that the suit debt is an agricultural debt or in other words, it is not a commercial one, I have to see, what is the rate of interest that could be claimed by the plaintiff.

21] For above reasons the rate of interest should be scaled down, from the date of filing of the suit. As per Proviso to Sec.34 of Code of Civil procedure, 1908, when liability in relation to the sum so adjudged arises out of commercial transaction, rate of further interest may exceed 6% p.a. However, in other transaction it provides that court may order interest at such rate as the court deems reasonable to be paid on the principal sum adjudged, from the date of the suit to the date of the decree, with further interest at such rate not exceeding 6% p.a from date of decree to the date of payment etc. Agriculture is distinct from trade or commerce, therefore proviso to Section 34 CPC is inapplicable Also as discussed in Para no.14, considering the nature of the loan in present case not being commercial one, rate of interest at 6. % p.a from the date of the suit till its realisation of entire amount would be justifiable. Hence, I answer to **Point Nos.1 to 3 in affirmative.**

AS TO POINT NOS. 4 : -

22] The Plaintiff Bank has proved their claim. Plaintiff bank has availed loan which defendants failed to repay as agreed. And thus, for the above reasons as an answer to **Point No.4**, I pass the following order :-

O R D E R

1. The suit is partly decreed with costs.
2. Defendant Nos.1 to 3 are held jointly and severally liable to pay to the plaintiff Bank a sum of Rs.4,61,020/- (Rupees Four Lakhs Sixty-One Thousand Twenty only).
3. The plaintiff shall further be entitled to pendente lite and future interest on the principal sum adjudged at the rate of 6% p.a. from the date of institution of the suit till the realization of the decretal amount.
4. Decree be drawn up accordingly.

(Dictated and Pronounced in an open court)

Sd/-xxx

Pimpalgaon (B), Nashik.
Date: - 16/07/2026

(Varsha Walchand Khendad)
2nd Civil Judge junior Division,
Pimpalgaon (B)

CERTIFICATE

I affirm that the contents of this PDF file are same, word to word as per the original.

Name of Stenographer	:	Smt.B.H.Gavit
Name of the Court	:	2nd Jt. C.J.J.D. and J.M.F.C., Pimpalgaon(B), Dist.Nashik
Order / Judgment Date	:	16/07/2026.
Judgment signed by Presiding Officer on	:	16/07/2026.
Judgment Uploaded on	:	16/07/2026.

टिप : डिजीटल सीग्नेचर मिळालेली नसल्याने न्यायनिर्णय डिजीटल स्वाक्षरीत केला नाही.)