

IN THE COURT OF THE SUBORDINATE JUDGE, SATHYAMANGALAM.

PRESENT: Tmt.N.Sharmila, B.A., B.L.,
Subordinate Judge,
Sathyamangalam.

Tuesday, the 13th day of August 2024
(2055 Thiruvalluvarandu Kurothy varudam Aadi Thingal 28th day)

O.S.No.88 of 2024

Canara Bank
P.Puliampatti Branch
represented by its
Branch Manager.

... Plaintiff

-Vs -

S.Vigneswaran

...Defendant

This suit was came up for final hearing before me on 12.08.2024 in the presence of Thiru.K.R.Annaamalai, Advocate for the plaintiff and the defendant has not appeared before this court and called absent set exparte on 23.07.2024 and upon hearing the arguments on plaintiff side and having stood over for consideration till this day, this court delivering the following...

JUDGMENT

The Suit is filed by the plaintiff to pass a decree and judgment against the defendants jointly and severally for a sum of Rs.9,35,226/- towards MSME Loan Account 4370768000060 with costs and subsequent interest at the rate of 11.30% official rate per annum from the date of suit till realization, on monthly rests, to the plaintiff bank.

2. The averments of the plaint in brief:

The plaintiff Bank is an Indian multinational, public sector bank. The Plaintiff Bank's business is regulated by Reserve Bank of India and vested with various social and economic commitments. The investments for the banking business were made by the Government of India and General Public. The Government of India is carrying out its socio economic policies through the plaintiff Bank. The growth and development of the Educational, Agricultural and all other industrial sectors are mainly depending upon the financial services rendered by the plaintiff Bank. At the request of the defendant on the application dated 27.10.2020, the plaintiff bank had sanctioned a MSME-Services Loan facility to him for Rs.7,00,000/- on 21.11.2020. The defendant was advised to avail the loan facility for Setting up new Bakery business purpose and he was advised to repay the amount in 60 EMI of each Rs.17,959/- and last installment being Rs.12,360/- with interest at the rate of minimum 11.30% on monthly rests subject to changes as decided by the Bank from time to time and with other terms and conditions. In consideration of advancing the above said MSME-Service Loan facility to him, he had executed Demand Promissory Note, Deed of Hyothecation on 03.12.2020. The defendant had availed the Loan Amount. The loan application given by the defendant, the Loan Sanction Letter, Demand Promissory Note, Deed of Hypothecation, executed by the defendant are produced before this honorable court. The defendant had not regularized the credit facility and repaid the amount. Hence an amount of Rs.9,35,226/- is outstanding due in the defendant's MSME Loan Account No.437768000060 as on 03.10.2023 and the

account is classified as NPA of the Bank. The account statements are detailed in the certified copy of the concerned loan ledgers maintained in the banker's book. The plaintiff bank officials many-a-time visited the defendant and requested them to discharge the debts due. But the defendants failed to repay the amount intentionally. Hence the suit has been filed. The defendant is not entitled to the benefits of any debt relief act and the plaintiff is entitled to claim interest at the rate of the contractual rate of 11.30% on monthly rests, which is also subject to changes from time to time as per direction from Reserve Bank of India. The plaintiff submits that as per section 21(A) of the Banking Regulation Act-1949, the rates of interest charged by banking companies are not to be subject to scrutiny by courts. The transactions 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. The plaintiff submits that, As per section 79 of The Negotiable Instruments Act-1881 when interest at a specified rate is expressly made payable on a promissory note or bill of exchange, interest shall be calculated at the rate specified, on the amount of the principal money due thereon, from the date of the instrument, until tender or realization of such amount, or until such date after the institution of a suit to recover such amount as the court directs the contractual rate of interest. Therefore the provisions of The Banking Regulation Act-1949 and The Negotiable Instruments Act-1881 are statutes and they would supersede section 34 of Code of Civil Procedure 1908. Hence the plaintiff is entitled to compound rate of interest on monthly rests from the date of suit, Until the defendant tenders or realization of the

entire decree amount.

3. The defendant is called set exparte on 23.07.2024.

4. Now the point for consideration:

1. Whether the plaintiff is entitled to get the relief as prayed for?

5. Evidences:

On the plaintiff side Thiru.G.Mugesh Branch Manager of the plaintiff Bank was examined as PW1 and Ex.A1 to Ex.A6 have been marked. The Defendant is called set exparte in this suit.

6. Points.

6.1. Heard. Records perused. The case of the plaintiff is that, at the request of the defendant on the application dated 27.10.2020, the plaintiff bank had sanctioned a MSME-Services Loan facility to him for Rs.7,00,000/- on 21.11.2020 and the defendant was advised to avail the loan facility for Setting up new Bakery business purpose and he was advised to repay the amount in 60 EMI of each Rs.17,959/- and last installment being Rs.12,360/- with interest at the rate of minimum 11.30% on monthly rests subject to changes as decided by the Bank from time to time and with other terms and conditions and in consideration of advancing the above said MSME-Service Loan facility to him, he had executed Demand Promissory Note, Deed of Hypothecation on 03.12.2020 and the defendant had availed the Loan Amount and the loan application given by the defendant, the Loan Sanction Letter, Demand Promissory Note, Deed of Hypothecation, executed by the defendant are produced

before this honorable court and the defendant had not regularized the credit facility and repaid the amount and hence an amount of Rs.9,35,226/- is outstanding due in the defendant's MSME Loan Account No.437768000060 as on 03.10.2023 and the account is classified as NPA of the Bank and the account statements are detailed in the certified copy of the concerned loan ledgers maintained in the banker's book and the plaintiff bank officials many-a-time visited the defendant and requested them to discharge the debts due and but the defendants failed to repay the amount intentionally and hence the suit has been filed and the defendant is not entitled to the benefits of any debt relief act and the plaintiff is entitled to claim interest at the rate of the contractual rate of 11.30% on monthly rests, which is also subject to changes from time to time as per direction from Reserve Bank of India and the plaintiff submits that as per section 21(A) of the Banking Regulation Act-1949, the rates of interest charged by banking companies are not to be subject to scrutiny by courts and the transactions 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 and the plaintiff submits that, As per section 79 of The Negotiable Instruments Act-1881 when interest at a specified rate is expressly made payable on a promissory note or bill of exchange, interest shall be calculated at the rate specified, on the amount of the principal money due thereon, from the date of the instrument, until tender or realization of such amount, or until such date after the institution of a suit to recover such amount as the court directs the contractual rate of interest and therefore the provisions of The Banking Regulation

Act-1949 and The Negotiable Instruments Act-1881 are statutes and they would supersede section 34 of Code of Civil Procedure 1908 and hence the plaintiff is entitled to compound rate of interest on monthly rests from the date of suit, Until the defendant tenders or realization of the entire decree amount.

6.2. To establish the case of the plaintiff, the Branch Manager of Plaintiff Bank was examined as PW1 and Ex.A1 to Ex.A6 have been marked through the PW1. A careful perusal of the chief examination of PW1 it could be seen that the PW1 had reiterated the averments set out in the plaint.

6.3. In respect of the loan transaction, the PW1 Marked the following documents for his support. Loan Application given by defendant is marked as Ex.A.1. Credit Sanction advice is marked as Ex.A.2. Demand Promissory Note executed by the defendant is marked as Ex.A.3. Deed of Hypothecation executed by the defendant is marked as Ex.A.4. Statement of Account A/c No.4370768000060 is marked as Ex.A.5. Lawyer Notice sent by the Plaintiff Bank to Defendant by RPAD with Postal Receipt and Acknowledge card is marked as Ex.A.6. Considering that the plaintiff is the Bank, the documents is taken admissible in evidence as per the Bankers Book Evidence Act.

6.4. This Court carefully perused the plaint, PW1's proof affidavit and Ex.A1 to A6. The plaintiff Bank sanctioned the above loan of Rs.7,00,000/- to the defendants on the basis of loan application of Ex.A1 and after the sanctioning the loan, the

defendant has executed the necessary documents of Personal loan agreement, demand promissory note and on perusal of Ex.A5 it could be seen that the defendant did not repay the loan as agreed by him. The Ex.A1 to Ex.A6 documents were cogently produced as per the section 101 of the Indian Evidence Act and substantiated the plaintiff's claim.

6.5. Therefore this court opinion that, the evidence of PW1 and Ex.A1 to Ex.A6 document were proved the loan transaction and the existing liability of the suit claim against the defendant.

6.6. In this case the defendant remained Ex-party and he has not appeared before this court and has not chosen to file any written statement refusing the allegation made in the plaint. There is no contra evidence on behalf of the defendant to reject the claim of the plaint. Considering the above facts and circumstance this court is of the considered opinion that the plaintiff has established the case with available oral and documentary evidence. Hence the Court finds no ground to disbelieve the testimony of plaintiff witness. In view of unbuttered and unchallenged oral and documentary evidence led by plaintiff deserves to be accepted on its face value. Hence, the plaintiff is entitled to get the decree as prayed for.

6.7. As per section 34 of the code of civil procedure, the court has discretion to order interest from the date of suit till the date of decree in case the decree is for payment of money.

7. In the result, the suit is decreed with cost. The plaintiff is entitled to recover the suit amount of Rs.9,35,226/- along with future interest at the rate of 9% per annum from the date of suit till the date of decree thereafter 6% per annum till realization from the defendant.

Dictated to the Steno typist and typed by her in Computer, printed, corrected and pronounced by me in open court on this the 13th day of August 2024.

Subordinate Judge,
Sathyamangalam.

Plaintiff 's side witnesses:

P.W.1. Thiru. G.Mugesh

Plaintiff 's side Exhibits

Ex.A1	27.10.2020	Loan Application given by defendant	Original
Ex.A2	21.11.2020	Credit Sanction advice	Original
Ex.A3	03.12.2020	Demand Promissory Note executed by the defendant	Original
Ex.A4	03.12.2020	Deed of Hypothecation executed by the defendant	Original
Ex.A5	19.10.2023	Statement of Account A/c No.4370768000060	Certified copy
Ex.A6	19.05.2023	Lawyer Notice sent by the Plaintiff Bank to	Office copy

Defendant by RPAD with Postal Receipt and
Acknowledge card

Defendant side witnesses and documents:- NIL

Subordinate Judge,
Sathyamangalam.