IN THE COURT OF ADDITIONAL DISTRICT JUDGE, UDUMALPET.

PRESENT: Thiru.V.John Mino, B.A.,B.L.,

Additional District Judge, Udumalpet(FAC),

Friday, the 29th day of September, 2023

O.S. No.551 of 2021

[CNR No.TNTI250003152022]

Union Bank of India, Poosaripatti Branch
Represented by its Branch Manager
(Previously known as Corporation Bank,
Poosaripatti Branch, Rep by its Branch Manager
now Amalgamated with Union Bank of India) … Plaintiff

Vs.

1.C.Jayalakshmi
2.C.Rajesh
3.K.Vartharajan … Defendants

The suit having been heard on 27.09.2023 in the presence of Shri.M.Kanagaraj, learned Counsel for the Plaintiff and the Defendants subsequently having remained set *exparte,* and the case having stood over for my consideration till this day, I delivered the following

J U D G M E N T

The plaintiff has filed the suit based on mortgage against the Defendants directing them to pay to the plaintiff bank a sum of Rs.12,58,678/- towards loan with interest.

2. The gist of the plaint is as follows:-

The 1st and 2nd defendants have applied loan from the defendants bank for

Agricultural Term Crop Loan and on 17.06.2011 a sum of Rs.3,00,000/- was sanctioned on execution of necessary documents for repayment with interest. The 1st and 2nd defendants executed a Common deed of Hypothecation of Movables/Assests/Debts and Common deed of Hypothecation of Crops/Stocks Agreement and other necessary loan documents on 17.06.2011. As per the agreement, the said loan has to be repaid the loan amount with half yearly interest at a rate of 13.85 % per annum from the date of loan until payment in full with half yearly rest or at such rates and rests as may be revised as per the Reserve Bank of India from time to time. The defendants have applied another loan for Agricultural Crop Loan of Rs.6,00,000/- and it was sanctioned on 24.05.2016 and executed the 1,2 defendants an Agreeement for Term Loans and Common deed of Hypothecation and necessary loan documents on 24.05.2016 and for repayment with interest. As per the agreement, the said loan has to be repaid the loan amount with half yearly interest at a rate of 11.65 % per annum from the date of loan until payment in full with half yearly rest or at such rates and rests as may be revised as per the Reserve Bank of India from time to time. The 1st and 2nd defendants have applied another loan for Agricultural Crop Loan of Rs.2,10,000/- and it was sanctioned on 27.09.2016 and executed the 1, 2 defendants an Hypothecation Agreement and necessary loan documents on 27.09.2016 and for repayment with interest. As per the agreement, the said loan has to be repaid the loan amount with half yearly interest at a rate of 10.35 % per annum from the date of loan until payment in full with half yearly rest or at such rates and rests as may be revised as per the Reserve Bank of India from time to time. The 3rd defendant in the guarantor of the above said loans. The 1st and 2nd defendants executed equitable mortgage on 28.06.2011 and Registered Momorandum of Deposit of Title Dees and on 05.05.2016 and the 1st and 2nd defendants executed supplemental Memorandum relating to deposit of title deeds for Additional/Enhances loans in favour of the plaintiff bank. The 1st and 2nd defendant has executed Acknowledgment of debt/liabilities on 22.02.2014, 04.03.2016 and 10.10.2018. The plaintiff bank issued a legal notice on 29.06.2021.Since, the defendants committed default, after receipt of notice the defendants have not come forward to repay the debt with interest. Hence, the suit.

3. The defendants have remained exparte.

4. The point for consideration is as to whether the plaintiff is entitled for preliminary decree as prayed for.

5. The prove the case of the plaintiff, the Bank Manager was examined as PW1 and he filed proof affidavit reiterating the averments of the plaint and produced Ex.A1 to Ex.A27.

6. I have heard the learned counsel for the plaintiff and perused the records. The Plaintiff has produced the Ex.A1 to A27 documents to show that the Defendants have executed mortgage deed with the Plaintiff-Bank and issued various revival letters. The above oral evidence of the plaintiff supported by the documentary evidence would show that the defendants have availed the loan from the plaintiff- Bank and committed default. The undisputed pleadings of the plaint and the evidence of the plaintiff would make this court to believe the entire case of the plaintiff. There are no materials to discredit and discard the case of the plaintiff. Accordingly, I hold that the plaintiff is entitled for recovery of money by preliminary decree.

7. In fine, the preliminary decree is passed as follows:

(a) That directing the Defendants are jointly and severally to pay Rs.12,58,678/- (Rupees Twelve Lakhs Fifty Eight Thousand and Six hundred Seventy Eight only) to the Plaintiff with interest at the rate of 12% per annum on the principal sum of Rs.3,00,000/- + Rs.6,00,000/- + Rs.2,10,000/- from the date of the suit till this date and thereafter at the rate of 6% per annum on the principal sum till realization and the same is hereby declared to be due;

(b) That the Defendants shall pay the costs of the suit;

(c) That the defendants shall pay the amount within two months and the plaintiff shall re-transfer the mortgage document in favour of the Defendant;

(d) That if the defendants did not pay the amount as ordered in the above clauses, the plaintiff is entitled to proceed with the sale against the suit property; and

(e) That the Plaintiff is given liberty to approach the Court for final decree on the default of the Defendants.

Dictated to the Steno Typist and typed by her through Computer, corrected and pronounced by me in the open Court on this the 29th day of September, 2023.

V JOHN MINO
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Date: 2023.09.29 17:08:37 +0530

Additional District Judge(FAC),
Udumalpet.

APPENDIX

Plaintiff's side Witnesses:-

1. PW1 - Eswaran

Plaintiff's Side Exhibits:-

1.	06.05.2020	:	The Gazette of India Notification
2.	17.06.2011	:	Loan application executed by the 1st and 2nd defendants in favour of the plaintiff bank for sum of Rs.3,00,000/-
3.	17.06.2011	:	Agreement for Term loans executed by the 1st and 2nd defendants in favour of the plaintiff bank for sum of Rs.3,00,000/-
4.	17.06.2011	:	Common deed of Hypothecation of crops/stocks executed by the 1st and 2nd defendants in favour of the plaintiff bank for sum of Rs.3,00,000/-
5.	17.06.2011	:	Common deed of Hypothecation of Movables/Assets executed by the 1st and 2nd defendants in favour of the plaintiff bank for sum of Rs.3,00,000/-
6.	17.06.2011	:	Guarantee Agreement executed by the 3rd defendant in favour of the plaintiff bank for sum of Rs.3,00,000/-
7.	24.05.2016	:	Loan application executed by the 1st and 2nd defendants in favour of the plaintiff bank for sum of Rs.6,00,000/-
8.	24.05.2016	:	Agreement for Term Loans executed by the 1st and 2nd defendants in favour of the plaintiff bank for sum of

		Rs.6,00,000/-
9. 24.05.2016	:	Common deed of Hypothecation for Agricultural loans executed by the 1st and 2nd defendants in favour of the plaintiff bank for sum of Rs.6,00,000/-
10. 24.05.2016	:	Deed of Guarantee Agreement executed by the 3rd defendant in favour of the plaintiff bank for sum of Rs.6,00,000/-
11. 27.09.2016	:	Loan application executed by the 1st and 2nd defendants in favour of the plaintiff bank for sum of Rs.6,00,000/-
12. 27.09.2016	:	Hypothecation Agreement for Term loans executed by the 1st and 2nd defendants in favour of the plaintiff bank for sum of Rs.2,10,000/-
13. 27.09.2016	:	Deed of Guarantee Agreement executed by the 3rd defendant in favour of the plaintiff bank for sum of Rs.6,00,000/-
14. 28.06.2011	:	Original registered Memorandum of deposit title deeds executed by 1st and 2nd defendant in favour of the plaintiff bank
15. 05.05.2016	:	Original registered Supplemental Memorandum of deposit title deeds for additional/enhanced loans executed by 1st and 2nd defendant in favour of the plaintiff bank
16. 29.05.2009	:	Original registered partition deed
17. 19.05.2011	:	Encumbrance certificate for the period from 01.01.1987 to 18.05.2011
18. 06.05.2018	:	Encumbrance certificate for the period from 01.01.2011 to 05.05.2018
19. 22.02.2014	:	Acknowledgement of debt/Liability executed by 1st and 2nd defendant in favour of the plaintiff for Rs.3,00,000/-
20. 04.03.2016	:	Acknowledgement of debt/Liability executed by 1st and 2nd defendant in favour of the plaintiff for Rs.3,00,000/-
21. 10.10.2018	:	Acknowledgement of debt/Liability executed by 1st

			and 2nd defendant in favour of the plaintiff for Rs.3,00,000/-
22.	10.10.2018	:	Acknowledgement of debt/Liability executed by 1st and 2nd defendant in favour of the plaintiff for Rs.6,00,000/-
23.	10.10.2018	:	Acknowledgement of debt/Liability executed by 1st and 2nd defendant in favour of the plaintiff for Rs.2,10,000/-
24.	29.06.2021	:	Copy of the legal notice
25.	17.06.2011 to 31.05.2021	:	True copy of statement of Account
26.	24.05.2016 to 31.05.2021	:	True copy of statement of Account
27.	27.09.2016 to 31.05.2021	:	True copy of statement of Account

V JOHN MINO
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Additional District Judge(FAC),
Udumalpet.