HRKR020037752022

REENA GUPTA Digitally signed by REENA GUPTA Date: 2025.02.04 10:24:00 +0530

Presented on : 10-10-2022
Registered on : 10-10-2022
Decided on : 03-02-2025
Duration : 2 years, 3 months, 24 days

IN THE COURT OF
Additional Civil Judge (Senior Division) AT ,Karnal
Presided Over by Sh. Sudhir Kumar

CS/3000/2022

ICICI Bank Limited, a body corporate, incorporated and registered under the Companies Act, 1956 having its registered office at ICICI Bank Tower, Near Chakli Circle, Old Padra Road, Baroda having its Corporate Office at ICICI Bank Towers, Bandra Kurla Complex, Mumbai – 400001 and having branches all over India and one of its branch offices situated at ICICI Bank Ltd, at 2nd Floor, SCO-255-256, Opposite Mini Secretariat, Sec-12, Karnal – 132001 through its Power of Attorney Holder Mr. Varinder Kanyan

..… Plaintiff-Bank

Versus

1. Mahender S/o Dilawar Singh R/o 115, Shahjahanpur Gharaunda, Karnal – 132114
   Also At:-
   Mahender S/o Dilawar Singh R/o 115, Ward No.3, 2, 2 Shah, Jahanpur (17), Karnal, Haryana – 132114

…… Borrower/Defendant

2. Parveen Singh S/o Dilawar Singh R/o 115, Shahjahanpur Gharaunda, Karnal – 132114

…… Co-Borrower/Defendant

Suit for recovery of Rs.12,88,124/- along with interest

Present: Shri Amish Goel, counsel for plaintiff-bank
Defendants no.1 and 2 exparte vide order dated 26.5.2023

JUDGMENT:

Present suit has been filed by the plaintiff bank against the defendants for recovery of Rs.12,88,124/- including interest calculated upto 30.4.2022 along with pendent-lite and future interest at the rate of 12% per annum, plus penal interest from the date of filing of suit till realization of the decretal amount, by sale of mortgaged/ hypothecated land as well as other properties and assets of defendants.

2. In nutshell, brief facts of the case are that plaintiff bank is a body corporate, incorporated and registered under the Companies Act, 1956 having its registered office at ICICI Bank Tower, Near Chakli Circle, Old Padra Road, Baroda having its Corporate Office at ICICI Bank Towers, Bandra Kurla Complex, Mumbai – 400001 and having branches all over India and one of its branch offices situated at ICICI Bank Ltd, at 2nd Floor, SCO-255-256, Opposite Mini Secretariat, Sec-12, Karnal – 132001. Mr. Varinder Kanyan holds valid Power of Attorney and is well conversant with the facts of the present case and he is authorized by virtue of power of attorney to prosecute, file the case, to depose thereon, to verify and to sign the pleadings, conduct the case on behalf of the plaintiff bank.

Defendant no.1 being principal borrower and defendant no.2 being co-applicant approached the plaintiff bank for grant of KCC (Kisan Credit Card) loan facility and submitted loan application dated 12.5.2016 and offered collateral security by way of mortgage of his land measuring 14B-17B situated in Village Shahajha Pur, Tehsil Gharaunda, District Karnal vide jamabandi for the year 2010-2011 read with mutation no. 570, 576. Accordingly the plaintiff bank sanctioned the facility of financial assistance under KCC to the tune of Rs.8,83,000/- to the defendants for the first year and Rs.12,92,700/- for the fifth year on certain terms and conditions stipulated in the sanction letter dated 12.5.2016 against hypothecation of crops i.e. wheat and paddy on 13.66 acres and mortgage of his land measuring 14B-17B situated in Village Shahajha Pur, Tehsil Gharaunda, District Karnal vide jamabandi for the year 2010-2011 read with mutation no. 570, 576. In consideration of sanctioning the above said KCC limit, defendants executed the hypothecation deed on 26.5.2016 vide which they agreed to repay the loan amount with interest at the rate of 12% or at such other rate as may be decided by the bank from time to time. In order to further secure the repayment of loan amount, defendants mortgaged their agricultural land measuring 14B-17B situated in Village Shahajha Pur, Tehsil Gharaunda, District Karnal vide jamabandi for the year 2010-2011 read with mutation no. 570, 576 in favour of the plaintiff bank by way of declaration u/s 4(1) of the Haryana Agricultural Credit Operation and Miscellaneous Provision (Banks) Act as collateral security.

But defendants did not adhere to the financial discipline of plaintiff bank and failed to repay the loan amount as per the terms and conditions of agreement executed by them in favour of the plaintiff bank. Plaintiff bank made several requests to defendants for repayment of loan but to no avail. Even bank notice dated 8.8.2022 was served upon defendants but to no effect. Hence, the present suit.

3. Notice of the suit was given to defendants. None appeared on

behalf of defendants despite service of notice and hence, they were proceeded against exparte vide order dated 26.5.2023.

4. In order to prove its case, plaintiff bank got examined Varinder Kanyan, power of attorney holder of the plaintiff bank as PW1, who tendered his duly sworn affidavit Ex.PW1/A in his evidence thereby reiterating the facts as mentioned in the plaint, which are not summarized for the sake of brevity. He also proved on record the following documents:-

Ex.P1	Power of attorney
Ex.P2	Credit facility application form
Ex.P3	Sanction letter
Ex.P4	Letter to Tehsildar/ Sub Registrar for creation of charge on land in favour of bank
Ex.P5	Declaration under Haryana Agricultural Credit Operation and Miscellaneous Provision (Banks) Act, 1973, Section 4(1)
Ex.P6, Ex.P8	Notice issued by the bank to the defendants
Ex.P7, Ex.P9	Speed post receipt
Ex.P10	Statement of account

Thereafter, exparte evidence of plaintiff was closed by counsel by making separate statement.

5. I have heard learned counsel for the plaintiff-bank and have gone through the case file.

6. Learned counsel for the plaintiff-bank argued that the entire evidence led by the plaintiff-bank remained un-rebutted and as such a prayer for decretal of the suit is made.

7. After going through the case file and hearing the learned counsel for the plaintiff-bank, this court reached to the conclusion that the plaintiff-bank has proved its case against the defendants. With the help of the credit facility application form (Ex.P2) which was submitted by the defendants with the plaintiff-bank, it is duly proved by the plaintiff bank that the defendants applied for the above said KCC limit to the plaintiff-bank and their application had also been supported and accompanied by other relevant documents as securities for the repayment of the loan in question along with interest at agreed rate as the same is clear from the perusal of Ex.P3 sanction letter and other documents as placed on record. The entire evidence led by the plaintiff-bank remained unrebutted. As such it is duly proved by the plaintiff bank that the defendants had availed the above said loan and they had undertaken to repay the loan amount along with the interest as agreed upon as per agreement. As such, the defendants are liable to repay the suit amount to the plaintiff bank as per the loan agreement executed by them at the time of availing the loan facility.

8. As a sequel to my above discussion, this suit of the plaintiff bank succeeds and the same is hereby decreed with costs. A decree for recovery of Rs.12,88,124/- along with the pendentalite and future interest @ Rs.10% per annum, is passed in favour of the plaintiff bank and against the defendants. Defendants jointly and severally are duty bound to pay the outstanding amount of Rs.12,88,124/- along with the pendentalite and future interest @ Rs.10% per annum, till its realization to the plaintiff-bank. The

defendants are further directed to repay the loan amount within a period of two months from the date of passing of judgment, failing which the plaintiff-bank would be at liberty to execute the decree with the assistance of the court. The plaintiff-bank is also directed to adjust the amount, if any paid by the defendants prior to file this suit and during the pendency of this suit, towards the loan amount outstanding against the defendants. Original unexhibited documents be returned back to the parties concerned as per rules after retaining the photo copy of the same on the file. The amount lying undisbursed, if any, be disbursed as per rules. Plaintiff bank shall be at liberty to recover the amount from the mortgaged/hypothecated property of defendants, if any, through execution process. Decree-sheet be drawn accordingly. File after due compliance be consigned to the record room.

Pronounced in open Court.
3.2.2025

(Sudhir Kumar),
Addl. Civil Judge (Senior Division)
Karnal. UID No.HR-0321

Note: All pages of this judgment have been dictated, checked and signed by me.

(Sudhir Kumar),
Addl. Civil Judge (Senior Division)
Karnal. UID No.HR-0321

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ICICI Bank Limited Vs. Mahender and another
7

Present: Shri Amish Goel, counsel for plaintiff-bank
Defendants no.1 and 2 exparte vide order dated 26.5.2023

Exparte arguments heard. Vide my separate judgment of even date, suit of the plaintiff has been decreed with costs. Decree-sheet be prepared accordingly. File be consigned to record room after due compliance.

Pronounced in open Court.
3.2.2025

(Sudhir Kumar),
Addl. Civil Judge (Senior Division)
Karnal. UID No.HR-0321

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(Sudhir Kumar)
ACJ(SD), Karnal. 3.2.2025