Received on :- 14/09/2023
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Decided on :- 06/02/2024
Duration :-00 4 23
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BEFORE THE COURT OF HON'BLE ADDL. CIVIL JUDGE, AT NADIAD (DIST. KHEDA)

REGULAR SUMMARY SUIT NO. 51/2023

Plaintiff:
CANARA BANK
Having its Head Office at Banglore.
Branch Office at: Bhumel, Dist. Kheda.
Through its Authorized Signatory
Mr. Kunal

VERSUS

Defendants:
(1) **Mr. Kalubhai Ramanbhai Parmar**
Residing at: Sundar Kui,
Ta. Nadiad, Dist. Kheda-387001.

(2) **Mr. Sajnaybhai Ganpatsinh Parmar.**
Residing at: Civil Road, Mahi Canel, Doctor Hari Prasad No Kuvo,
Patel Society Area, Ta. Nadiad, Dist. Kheda.

Appearance:
Ld. Advocate Mr. Sapan Teredesai for the plaintiff
Ex-Parte for the Defendant

Suit for recovery of Rs. 47,195.77/- (Rupees Forty Seven Thousand one Hundred Ninety Five and Seventy Seven Paisa Only) along with interest .

-: J U D G M E N T:-

1. The plaintiff-Bank has filed this summary suit against defendant under Order 37, Rule 1 & 2 of the Code of Civil Procedure for getting his due amount of Rs. 47,195.77/- (Rupees Forty Seven Thousand one Hundred Ninety Five and Seventy Seven Paisa Only) along with interest.
2. The Brief facts of the present case is as under :

   The plaintiff-Bank herein is a corporate body, constituted under the provisions of Banking Companies (Acquisition and Transfer of undertaking) Act, 1970 having its Head Office at Bangalore and on of its branch at Bhumel, Ta. Nadiad at Kheda. The defendant had borrowed money from the plaintiff-Bank for purchase of Milk Animals and defendant No. 2 is the guarantor for securing the payment due on advances made by the plaintiff's Bhumel Branch, Dist. Kheda. At the request of defendant, the plaintiff has on 28.08.2018 granted and disbursed Dairy Loan of Rs. 1,00,000/- (Rs. One Lakh only) to the defendant for the purpose of purchase of Milk Animals and in consideration and the defendants thereof entered into the loan and security documents particulars of which included Loan Application Form for Agricultural Credit dated 27.08.2018, Certificate, Agreement for Agricultural Advances, Deed for Guarantee for Agricultural Advances, Acknowledgement of debt and Security, The Statement of Bank Account, Gazette of India, The Authority Letter,etc....

3. That as per the agreement for Agricultural Advances dated 27.08.2018, the defendant has agreed to repay the Dairy Loan amount of Rs. 1,00,000/- (Rs. One Lakh only) with variable rate of interest @ 9.65% with amount Rs. 1,666 (Rs. One Thousand Six Hundred Sixty Six) monthly installment. That

as per the last approved rate of interest applicable as on date of the suit the outstanding amount Rs. 47,195.77/- (Rupees Forty Seven Thousand One Hundred Ninety Five and Seventy Seven Only) that due to non-regularization of the installments the defendant is further liable for an addition overdue interest @ 2 % P.A. original Loan account statement is attached with the suit.

4. That the defendant was bound to pay the amount from 28.09.2018 but the defendant has not paid the installments not any amount since after 18.06.2020 to till date and has breached the agreement executed by them. The Plaintiff has given many reminders but the defendants have not repaid any amount. When the application was given for Dairy Loan on dated 27.08.2018, then 2nd the disbursement was given from dated 28.08.2018, 3rd then the defendant stopped making payment from dated 18.06.2020 and thereafter continuing till date. Hence, the defendant is to be legally forced to be pay. The suit is filed in summary procedure and there is no relief which does not fall within the ambit of Order d37 of Civil Procedure Code has been claimed. For the purpose of jurisdiction and court fees the suit is valued at Rs. 47,195.77/- (Rupees Forty Seven Thousand one Hundred Ninety Five and Seventy Seven Paisa Only) as on date and the plaint is presented on a court fees stamp of Rs. 3,550/-. The Outstanding debt of the defendant for the sum of Rs. 47,195.77/-(Rupees Forty Seven Thousand one Hundred Ninety Five and Seventy Seven Paisa Only) along with the amount outstanding till the date of realization of the amount as per the loan agreement to be recovered from the movable and immovable assets of the defendant. Further interest at @ 9.65% P.A. for Dairy Loan from the date of filing the suit till payment along with the overdue interest of 2% as per the Agreement.

5. Here in the present case, the plaintiff-Bank has filed the following documentary evidence.

Documentary evidence

Sr. No.	Particulars	Mark
1.	Application for agricultural Credit	3/1
2.	Certificate	3/2
3.	Agreement for agricultural Advances	3/3
4.	Deed for Guarantee for Agricultural Advances	3/4
5.	Acknowledgement of debt and security	3/5
6.	The Statement of Bank Account	3/6
7.	Gazette of India (Merger Letter of Canara Syndicate Bank)	3/7
8.	The Authority Letter of Mr. KUNAL as authorized Signatory of Canara Bank Bhumel Branch	3/8

6. Here in the instant case, the defendant has not appeared before the court to defend his case and he has not filed any application for leave to defend within stipulated time. Therefore, the plaintiff has become entitled for decree as provided under order 37 Rule 3 of the Code of Civil Procedure, 1908. The plaintiff Bank has produced original documents vide Mark 3/1 to 3/8, respectively.

7. In the present case, looking to the provisions contained in order 37 Rule 3, it provides that if the defendant not appeared and in default of his entering an appearance the allegations in the plaint shall be deemed to be admitted and the plaintiff shall be entitled to a decree for any sum, not exceeding, the sum mentioned in the summons, together with interest at the rate specified, if any, up to the date of the decree.

8. Hence, the plaintiff's suit is required to be allowed. But the plaintiff has submitted statement of loan account of the defendant No. 1 vide Mark 3/6. . defendant has not paid installment amount, so, the plaintiff has to file the suit immediate after non-payment of installment but the plaintiff has not chosen to file the suit. Therefore, if the defendant has not paid the installment of the loan and plaintiff-bank has also suspended loan account, then, plaintiff-bank has to file this suit but he did not do so and wait for long time and carry forward the suspended loan account and charge compound penalty interest and file the present suit for recovery of Rs. 47,195.77/- (Rupees Forty Seven Thousand and Hundred Ninety Five and Seventy Seven Paisa Only) and as per the acknowledgment given by the defendant which was produced by the plaintiff Mark No. 3/5 in the said acknowledgment plaintiff has mentioned left blank outstanding amount. Therefore, negligency on the part of plaintiff for not filing the suit since long time and defendant has also not acknowledgment, plaintiff is entitled only the due amount of Rs. 47,195.77/- (Rupees Forty Seven Thousand One Hundred Ninety Five and Seventy Seven Paisa Only) from the date of filing the suit with costs and interest from the defendant from the date of filing of this suit petition till actual realization of the full amount. Thus, in the interest of justice, following order is passed:

-::- F I N A L O R D E R -::-

1. The present suit of plaintiff-Bank is hereby **allowed.**
2. The plaintiff-bank is entitled to recover the amount of Rs.47,195.77/- (Rupees Forty Seven Thousand One Hundred Ninety Five and Seventy Seven Paisa Only) along with interest 6% P.A. from the date of filing of the

suit till the realization of said amount from the defendant and properties of defendant.

3. Upon facts, the defendant shall pay costs of the suit to the plaintiff.
4. Decree be drawn accordingly.

Signed and pronounced in the open court today.

Date :06-02-2024
Place:- Nadiad.

(Jitendrasinh Abhesinh Rana)
Additional Civil Judge
Nadiad.
Judge Code No. GJ-01338

(Pinkal-Eng.Steno.Grd.III)