PBGD020025772022

Presented on : 11-10-2022
Registered on : 12-10-2022
Decided on : 21-04-2023
Duration : 0 years, 6 months, 10 days

IN THE COURT OF
Civil Judge (Junior Division) AT ,Gurdaspur
Presided Over by Sh. Yogesh Gill

CS/1997/2022

State Bank of India A Body Corporate Constituted Under The State Bank of India Act 1955 carrying on its business of banking and having branches at different places in India including on at Dhariwal through its Branch Manger Ms. Ankita Bhagat. Aadhaar No. 496774979180.

.....Plaintiff.

VERSUS

Kuldip Singh son of Karnail Singh, resident of Village Bhamboi, Post Office Dadiala Nazara, Tehsil Batala and District Gurdaspur.

........Defendant.

Suit for recovery of Rs.1,29,312/- inclusive of interest calculated upto 28.09.2022 along with future interest at the prevailing rate till its realziation
And
Suit for passing of personal decree against the defendant as per provision of C.P.C.

Present: Sh. Vikas Sharma Advocate for plaintiff.
Defendant exparte vide order dated 21.12.2022.

JUDGMENT:-

1. Succinctly, brief facts of the case are that the plaintiff is a body Corporate constituted under the State Bank of India Act, 1955, and having its Central Office at Madam Cama Road, Nariman Point, Mumbai and and one of its local head office at Sector 17 Chandigarh. It has its Branches throughout India and one such branch is also situated at Dhariwal. which is under the administrative control of Regional Office, Punjab Chandigarh. At present the suit is being filed/instituted through Ankita Bhagat, Branch Manager State Bank of India Branch Dhariwal having been duly authorized by the competent authority at Regional Office Punjab Chandigarh to sign and verify the plaint etc. she is the Principal Officer of plaintiff/Bank and is fully conversant with the facts of the case and therefore to depose the same. She is competent to sigh, verify all types of pleadings, Vakalatnamas, affidavits, executions and other applications to do all acts, necessary for the proper conduct of the case of the Bank (Pathankot) in terms of Gazetee Notification Dated 26.09.1959 and 26.08.72 issued by the Executive Committee of the General Office Regulations No. 76 & 77 of the State Bank of India Act, 1955. The present suit is accordingly being instituted duly signed and verified by her. That the plaintiff/bank has granted loan to the tune of **Rs.95,000/- for purpose of Crop Loan on interest at the rate of 11.30% per annum** with half yearly rest on the application of the defendant dated 09.11.2015. The defendant in view of the above said loan agreed to pay to

the plaintiff/bank the amount along with interest and other allied and incidental charges applicable on the amount so advanced at the minimum rate of interest **11.30% P.A.** on crop loan, and this rate of interest agreed was subject to variations as per RBI instructions and Guidelines issued from time to time and the contractual rate of interest at the time of filing of this suit is **10.60% P.A**. compounded with half yearly rests on crop loan. The defendant further agreed to charge and hypothecate the agricultural implements. to be purchased under this crop loan and crop to be raised by him in favour of plaintiff/bank by way of first charge as a security for the due repayments of the loan amount & defendant further agreed to repay this loan along with interest and other allied & incidental charges payable in half years installments till the entire loan is repaid by the defendant to the plaintiff/bank. It is also agreed that in case of default by the defendant in the repayments to the loan the plaintiff is also entitled to charge 2 % as per penal rate of interest which is over and above the contractual rate of interest. Original loan application is attached with the plaint. On the request of defendant the plaintiff/bank accepted the proposal and agreed to grant loan of Rs.95,000/- for crop Loan on the agreed terms and conditions as agreed & in consideration of the same the defendant executed the following documents on 21.11.2015 in favour of the plaintiff/bank.

a). Interview cum Assessment Form.

b). Letter of Arrangement

c) Hypothecation agreement.

d) Affidavit of borrower.

e) Lease deed dated 14.11.2015 executed by Shri Rattan Singh in favour of Kuldip Singh for the period of 5 years.

f) Jamabandi for year 2012-2013.

The terms and condition of the loan and repayment schedule etc. were fully mentioned in above said documents including the rate of interest payable along with interest which may be read as part and parcel of the plaintiff. Under the said credit facility, an amount of Rs.95,000/- was duly sanctioned to be defendant for the purpose fully detailed and mentioned above, as shown in the statements of accounts by the plaintiff in favour of the defendant on the above said terms and conditions debited to the loan account. As agreed and promised, the defendant committed default in his respective obligations in the regular repayment of the crop loan due and thus he became the defaulter of the plaintiff/bank in the circumstances aforesaid, according to the books of accounts/computer record regularly maintained in the usual and ordinary course of its business, there is now owing and payable by the defendant to the plaintiff/Bank under the said loan a sum of Rs.95,799/- inclusive of interest calculated up to 16.09.2022 & further pendente-lite interest 10.60% P.A. on crop loan, compounded with half yearly rests and 2 % penal interest, which will continue to accrue from defendant till its realization in full and final from the defendant by plaintiff/Bank. The defendant has failed to make the payment of the loan amount as per agreement, despite the repeated requests by the plaintiff Bank. The cause of action for the present suit arose on 21.11.2015 when the loan was advanced and defendant executed the loan documents and on 16.10.2018 & 29.03.2021 when the defendant executed Revival letters in favour of the plaintiff/Bank, thereby acknowledgment, reviving, renewing, extending and admitted his liabilities under the said loan, and lastly the cause of action arose in favour of the plaintiff/bank and against the defendant since a fortnight back when plaintiff/bank demanded the total balance amount of out-standing due under the crop loan from the defendant but he has refused to repay the amount due payment by him to the plaintiff/ bank. Hence, the present suit.

2. Upon notice, notice of the suit was given to the defendant who did not appear in the Court and he was proceeded against exparte vide order dated 21.12.2023.

3. In exparte plaintiff evidence, plaintiff-Bank has examined Ankita Bhagat through her duly sworn affidavit Ex.PW1/A, whereby she has reiterated and narrated the similar facts as mentioned in the plaint. She has also tendered into evidence documents i.e. Loan application dated 09.11.2015 Ex.P1, Interview cum Appraisal Form Ex.P2, Arrangement Letter Dated 21.11.2015 Ex.P3, Agreement of Hyphohecation Ex.P4, Affidavit of borrower dated 14.11.2015 Ex.P5, Lease Deed dated 14.11.2015 Ex.P6, Jamabandi for year 2012-2013 Ex.P7, Statement of Account Ex.P8, Certificate under Section 65-B of Indian Evidence Act

Ex.P9, Revival Letter dated 16.10.2018 and 29.03.2021 Ex.P10 and thereafter Ld. Counsel has closed exparte evidence on behalf of Plaintiff-Bank on 21.04.2023.

4. I have heard Ld. counsel for the plaintiff and have also perused the case file carefully and minutely.

5. Ld. counsel for plaintiff while referring to the evidence led by plaintiff bank forcibly argued that plaintiff bank has granted loan to the tune of Rs.95,000/- for the purpose of crop loan on interest rate at the rate of 11.30% per annum with half yearly rests on the application of defendant dated 09.11.2015. The defendants in view of the above said loan agreed to pay to the plaintiff bank the amount along with interest and other allied and incidental charges applicable on the amount so advanced at the minimum rate 10.60% per annum compounded with half yearly rests and this rate of interest as agreed was subject to variation as per RBI instructions and guidelines issued from time to time and the contractual rate of interest at the time of filing of the suit is 10.60%. It was also agreed that in case of default by the defendant in the repayment of the loan the plaintiff is also entitled to charge 2% as penal rate of interest which is over and above the contractual rate of interest. He further contended that defendant failed to adhere to make the payment of loan amount as per agreement despite repeated requests by the plaintiff bank. He further contended that plaintiff has successfully proved its case by leading cogent and convincing evidence and the entire case of the plaintiff remained unrebutted as defendants have failed to appear and contest the

same despite due service. Thus he prayed for decreeing the suit.

6. I have given thoughtful consideration to these submissions and appreciated the record of the case in the light of said submission.

7. Plaintiff has filed the present suit for recovery as fully detailed in the head note of the plaint In order to prove his case the plaintiff examined (PW1) Ms. Ankita Bhagat, Branch Manager, State Bank of India and she categorically deposed in terms of the case of plaintiff and has proved taking/availing of loan in question by defendant and thereafter default made by him in making payment of the same and she also proved the outstanding amount due against the defendant in his loan account. She also proved on record documents Ex.P1 to Ex.P10 as discussed supra. So from the evidence led by the plaintiff bank, it is duly proved that defendant approached the plaintiff bank and availed loan of Rs.95,000/- for crop loan on the agreed terms and condition and in consideration of the same defendant executed following documents on 21.11.2015 in favour of plaintiff bank which are as under:-

a). Interview cum Assessment Form.

b). Letter of Arrangement

c) Hypothecation agreement.

d) Affidavit of borrower.

e) Lease deed dated 14.11.2015 executed by Shri Rattan Singh in favour of Kuldip Singh for the period of 5 years.

f) Jamabandi for year 2012-2013.

That under the said credit facility, an amount of Rs.95,000/- was duly sanctioned and disbursed to the defendant on 21.11.2015 for the purpose fully detailed and discussed above and thereafter the defendant failed to make the payment of loan amount as per agreement despite repeated requests by the plaintiff bank. As on 28.09.2022 an amount of Rs.1,29,312/- was outstanding as per account statement Ex.P8, which the defendant is liable to pay to the plaintiff bank along with pendite-lite interest at the agreed rate. Furthermore (PW1) Ms. Ankita Bhagat proved on record loan cum arrangement letter Ex.P3 and hypothecation agreement Ex.P4. Plaintiff has claimed the said amount along with future interest at the prevailing rate till its realization.

8. Clearly, the preponderance of probability is tilting towards the case of plaintiff bank. The plaintiff bank led cogent and convincing evidence to prove that the defendant have availed loan facility and they failed to return the same as per agreement. (PW1) Ms. Ankita Bhagat has brought on record **account statement Ex.P8** proving the outstanding liability of defendant to pay Rs.1,29,312- inclusive the interest up to 28.09.2022 which is outstanding against the defendants. Per contra, defendants have failed to appear before this Court and to rebut the case of plaintiff bank. Therefore, the plaintiff bank is entitled to recovery of Rs.1,29,312,/- inclusive of the interest up to 28.09.2022 from defendants.

9. Now, the Court is left with question of interest only, to be

awarded to plaintiff-bank. The Court would like to refer observations made by the Hon'ble Constitution Bench of Apex Court in **AIR 2001 SC 3095 titled as Central Bank of India versus Ravindra and others.** The Hon'ble Apex Court has dealt with phrases "the Principal Sum Adjudged" and on such "Principal Sum" as occurring in Section 34 of the CPC, a question of frequent recurrence and far reaching implication in suits for recovery of money, especially those filed by the banking institution. The Hon'ble Apex Court has observed that the principal sum actually advanced coupled with the interest on periodical rests so capitalized is capable of being adjudged as principal sum on the date of the suit. The Hon'ble Apex Court has further observed that principal sum so adjudged is "Such Principal Sum" within the meaning of Section 34 of the CPC on which interest *pendente lite* and future i.e. post decree interest, at such rate and for such period, which the Court may deem fit may be awarded by the Court. The relevant part of the observations made by the Hon'ble Apex Court is reproduced below:-

> *"(8) Award of interest pendente lite and post decree is discretionary with the Court as it is essentially governed by Section 34 of the CPC dehors the contract between the parties. In the given case if the Court finds that in the principal sum adjudged on the date of the suit the component of interest is disproportionate with the component of the*

principal sum actually advanced the Court may exercise its discretion in awarding interest pendente lite and post decree interest at a lower rate or may even decline awarding such interest. The discretion shall be exercised fairly, judiciously and for reasons and not in an arbitrary or fanciful manner."

10. In this case, the actual sum advanced was Rs.95,000/- and Rs.1,29,312/- were outstanding at the time of filing of suit including interest upto 28.09.2022. As such, keeping in view the above mentioned observations made by the Hon'ble Apex Court, this Court deem it a fit case, where the plaintiff bank is given *pendente lite@ 9%% Per Annum* and future interest@6%Per Annum from the date of filing of the suit till its actual realization on sum of Rs.1,29,312/- as adjudged on the day of filing of the suit.

11. Keeping in view of my above discussion, plaintiff bank has succeeded in proving its case by leading cogent and convincing evidence, accordingly the suit of the plaintiff bank stands decreed exparte with costs and a exparte decree for recovery of Rs.1,29,312/- along with interest is passed in favour of plaintiff bank and against defendants. Plaintiff-Bank is held entitled to recover the amount of Rs.1,29,312/- from defendants along with 2% penal interest which is over and above the contractual rate of interest from defendant. The plaintiff-Bank is also entitled to pendite-lite interest at the rate of 9%

per annum from the date of filing of the suit till the decision of this case. Plaintiff is also held entitled to future interest on the above said amount at the rate of 6% per annum on the sum of Rs.1,29,312/- i.e. from the date of decision of this suit till its realization. Accordingly, defendant is directed to make the payment of the decreetal amount to the plaintiff bank within a period of 4 months from the date of this judgment, failing which the plaintiff-Bank would be entitled to recover the decreetal amount through the Court of law. As the Ld. Counsel for the plaintiff-Bank has filed present suit with permission to affix remaining ad-volarem Court fee at the time of the decision of the case. Moreover present suit falls in clause (i) of Section 7 of Court fees Act, therefore plaintiff-Bank is required to affix ad-volarem Court fee on the amount of Rs.1,29,312/-. Accordingly, plaintiff-Bank is directed to affix remaining ad-volarem Court fees within a month from the date of decision. Decree sheet be prepared accordingly. File be consigned to the Record Room, Gurdaspur, after due compliance.

Pronounced in the open court.
Dated:21.04.2023
Sandeep Kumar, Stenographer-II*

(Yogesh Gill), PCS
Civil Judge (Junior Division),
Gurdaspur/UID-PB0677
Note: Dictated directly on computer.

CNR No: PBGD020025772022 CIS No: CS-1997-2022

State Bank of India VS Kuldip Singh etc.

Present: Sh. Vikas Sharma Advocate for plaintiff.
Defendant exparte vide order dated 21.12.2022.

Arguments heard and concluded. Vide my separate detailed judgment of even date, suit of the plaintiff stands decreed exparte with costs. As the Ld. Counsel for the plaintiff-Bank has filed present suit with permission to affix remaining ad-volarem Court fee at the time of the decision of the case. Moreover present suit falls in clause (i) of Section 7 of Court fees Act, therefore plaintiff-Bank is required to affix ad-volarem Court fee on the amount of Rs.1,29,312/-. Accordingly, plaintiff-Bank is directed to affix remaining ad-volarem Court fees within a month from the date of decision. Decree sheet be prepared. File be consigned to the Judicial Record Room, Gurdaspur, after due compliance.

Dated:21.04.2023

Sandeep Kumar, Stenographer-II*

(Yogesh Gill), PCS
Civil Judge (Junior Division),
Gurdaspur/UID-PB0677
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