IN THE COURT OF COMMERCIAL/III ADDL. SUB JUDGE, KOZHIKODE
Present:- Sri. Sidhik. K, Commercial Court Judge/ III Addl. Sub Judge

Friday, the 9th day of August, 2024.

Commercial Suit No. 181/2022

Between:

Canara Bank, Thondayad Branch, Thondayad, Chevayoor, Kozhikode Taluk and District Rep. By its Branch Manager Vivek, aged 35 years, S/o. A.M. Ramachandran	Plaintiff

And:

Sujathalakshmi, aged 37 years, D/o. Chandrasekharan Nair. Proprietor, Vani Impex, 28/78 A.8, Rohini Building, Chevarambalam Post, Kozhikode Taluk and District	Defendant

This suit coming on 7th day of August 2024 for final hearing before me in the presence of Sri. Nikhil. T.M and Anaswara. N Advocates for Plaintiff and Sri. Bimal Das Advocate for Defendant and having stood over to this day for consideration, the court passed the following:

J U D G M E N T

Suit is for realisation of amount from the defendant.

2. Case of the plaintiff in brief is as follows:- The plaintiff is a body corporate constituted under and governed by the Banking Companies (Acquisition and Transfer of Undertaking) Act 1970, having its head office at 112, J.C. Road, Bangalore and one branch office Thondayad. The bank is represented by Branch Manager. On application made by the defendant, the

plaintiff sanctioned an amount of Rs.10,00,000/- as cash credit MSME OCC scheme, i.e. an over draft facility, for the purpose of defendant's business concern. It was sanctioned by the plaintiff on 01.02.2018. At the time of granting the loan, the defendant executed enough loan documents including loan agreement. In the said agreement along with the other things the defendant agreeing the terms and conditions that she would pay back the loan amount with interest to the bank. Further, it is agreed that the bank is authorized to charge, additional or further rate of interest at such and in accordance with the rules and regulations of the bank. For the loan amount availed from the plaintiff bank, the defendant executed acknowledgment of debt to the plaintiff. Thereafter, the defendant renewed the above said over draft facility on 16.03.2019 as per the Renewal letter dated 16.03.2019. It was sanctioned by the plaintiff on 16.03.2019. Again, the defendant renewed the above said over draft facility on 30.10.2020 as per the Renewal letter. It was sanctioned by the plaintiff on 30.10.2020. It is further submitted that on another application made by the defendant, the plaintiff sanctioned an amount of Rs.2,00,000/- as cash credit facility to the defendant under GECL scheme for the purpose of defendant's business concern. It was sanctioned by the plaintiff on 30.10.2020. Further, it is agreed that the bank is authorized to charge, additional or further rate of interest at such and in accordance with the rules and regulations of the bank. As per the loan agreement, the repayment to be started on 30.11.2021, one year moratorium if granted by the defendant. The defendant agreed to pay the interest at the rate of 10.2% for the above said MSME OCC scheme over draft facility and at the rate of 7.50% GECL scheme, or such other rate may be prescribed by the bank or RBI from time to time, it is further agreed by the defendant that an additional interest at the rate of 2% per annum would be paid by him in the event of default in repayment. After availing loan, the defendant had not complied with the terms and conditions and defaulted repayment. The plaintiff contacted the defendant several times to settle the account. Even after that the defendant is not ready to settle the account. An outstanding amount of Rs. 11,38,651.22/- is due towards the first MSME OCC scheme loan as on 31.08.2022 and an outstanding amount of Rs.2,30,675.50/- is due towards the second loan GECL scheme loan as on 30.08.2022. The plaintiff had made demands for repayment in person several times. Finally, the plaintiff had caused a lawyer notice recall to be issued through the plaintiff’s counsel on 12.09.2022 to the defendant for demanding the above said amounts for her residential address. The said notices were received by the defendant but not complied the same. The plaintiff is convinced that unless effective legal steps are taken against the defendant, the amount outstanding in the loan account, will not be paid by her and hence this legal action. The plaintiff is legally entitled to realize the amounts from the defendant. Hence the suit.

3. PW1 was examined and Exts.A1 to A13 were marked on the side of the plaintiff. Neither oral nor documentary evidence was adduced from the defendants side.

4. Heard the plaintiff side.

5. The unchallenged oral testimony of PW1 very well goes to show that the defendant had availed cash credit facility for Rs.10,00,000/- and Rs.2,00,000/- from the plaintiff bank for her business purpose and subsequently she made default in repayment of the said amount. It would further goes to show that inspite of the demands from the side of plaintiff bank, the defendant failed to repay the balance amount and its interest. The oral testimony of PW1 is very clear that now the defendant is liable to repay altogether an outstanding amount of 13,69,326.72/- (Rupees Thirteen Lakh Sixty Nine Thousand Three Hundred and Twenty Six and Seventy Two Paise only) to the plaintiff bank.

6. Ext.A1 is the loan sanction memorandum of MSME OCC scheme executed by plaintiff bank dated 01.02.2018, Ext.A2 is the loan agreement of MSME OCC scheme dated 01.02.2018, Ext.A3 is the letter of renewal, Ext.A4 loan sanction memorandum of MSME OCC scheme executed by plaintiff bank dated 16.03.2019, Ext.A5 is the letter of renewal, Ext.A6 is the sanction memorandum dated 30.10.2020, Ext.A7 is the acknowledgment of debt and security dated 30.10.2020, Ext.A8 is the sanction memorandum dated 30.10.2020, Ext.A9 is the agreement cum deed of hypothecation, Ext.A10 is the statement of account maintained by the plaintiff bank for defendant for the period01.02.2018 to 31.08.2022, Ext.A11 is the statement of account for general advances for the period from 30.10.2020 to 30.08.2022, Ext.A12 is the lawyer notice issued to the defendant and postal receipts and Ext.A13 is the acknowledgment cards. The unchallenged oral testimony of PW1 coupled with documents Exts. A1 to A13 specifically shows that defendant failed to repay the cash credit amount towards

the plaintiff bank and in that transaction now an amount of Rs.13,69,326.72/- (Rupees Thirteen Lakh Sixty Nine Thousand Three Hundred and Twenty Six and Seventy Two Paise only) is due from the defendant to the plaintiff bank. Accordingly, the suit is liable to be decreed directing the defendant to pay the outstanding amount.

In the result, the suit is decreed as follows:-

1. Defendant is directed to pay an amount of 11,38,651.22/- (Rupees Eleven Lakh Thirty Eight Thousand Six Hundred and Fifty One and Twenty Two Paise only) with future interest at the rate of 10.2% till realization of the full amount.
2. Defendant is directed to pay an amount of Rs.2,30,675.50/- (Rupees Two Lakh Thirty Thousand Six Hundred and Seventy Five and Fifty Paise only) with future interest at the rate of 7.50% till realization of the full amount.
3. The plaintiff will be entitled for costs of the suit.

(Dictated to the Confidential Asst., transcribed by her, corrected and pronounced by me in Open Court, this the 09th day of August, 2024).

Sd/-
Judge, Commercial Court III

Plaintiff Witness:

PW1 : 01.08.2024 - Prasanth. K, Manager Canara Bank

Plaintiff Exhibit :

Ext. A1	: 01.02.2018	- Loan Sanction Memorandum of MSME OCC Scheme
Ext. A2	: 01.02.2018	- Loan agreement of MSME OCC Scheme
Ext. A3	: 16.03.2019	- Letter of Renewal
Ext. A4	: 16.03.2019	- Loan Sanction Memorandum of MSME OCC Scheme
Ext. A5	: 03.10.2020	- Letter of Renewal
Ext. A6	: 30.10.2020	- Loan Sanction Memorandum of MSME OCC Scheme
Ext. A7	: 30.10.2020	- Acknowledgment debt
Ext. A8	: 30.10.2020	- Loan Sanction Memorandum of GECL Scheme
Ext. A9	: 30.10.2020	- Loan Agreement of GECL Scheme
Ext. A10	: 31.08.2022	- Statement of Account of MSME OCC Scheme for the period from 01.02.2018 to 31.08.2022 with 65 B Certificate
Ext. A11	: 30.08.2022	- Statement of Account of GECL Scheme for the period from 30.10.2020 to 30.08.2022 with 65B Certificate
Ext. A12	: 12.09.2022	- Office copy of Lawyer notice with Postal Stamp
Ext. A13	: 17.09.2022	- Acknowledgment card
Ext. A13(a)	: 17.09.2022	- Acknowledgment card

Defendants witness/Exhibit - Nil

Sd/-
Judge, Commercial Court III

//True Copy//

Judge, Commercial Court III

Typed by As

Fair/Copy of judgment in
C.S. 181/2022
Dated: 09.08.2024