Filed on :			
Registered on:			
Decided on :	**30.03.2024**		
Duration :	**Years**	**Months**	**Days**
Exhibit :			

IN THE COMMERCIAL COURT AT CITY CIVIL COURT, AHMEDABAD

COMMERCIAL CIVIL SUIT NO.503 OF 2022

Plaintiff(s) : **ICICI Bank Limited**
Having its Registered Office at Landmark, Race course circle, Vadodara, having its Branch Office-2 2nd Floor, Heritage Chambers, Nr. Azad Society, Nehrunagar, Ahmedabad, Through its Power of Attorney Holder
Mr. Nishant Pandey
Age: 43 years, Occ. Service.

Versus

Defendant(s) **Jitendra Bansilal Verma**
Age: Adult, Occ: Business,
Add: B/24, Shivshakti Society, Nr. V.V. Tomar School, Kubernagar, Ahmedabad.

Appearance:
Mr. K.R. Patel: Learned Advocate for the Plaintiff.
None for the defendant.

JUDGMENT

1. The plaintiff has instituted the present suit against the defendant for recovery of Rs.5,72,485/- with future interest @ 14.3% per month from the date of the suit till

realization with all costs, charges and expenses that have been incurred by the plaintiff from the date of filing of the suit till payment, realizable from the person and properties of the defendant.

2. The brief facts of the present case are as under :-

2.1 The plaintiff is a bank *inter-alia* engaged in the business of Banking and providing loans and advances and other financial services.

2.2. The defendant was in need of money for commercial vehicle loan, therefore, approached the plaintiff to avail auto loan facility. The plaintiff after considering the request of the defendant, the plaintiff agreed to give an Auto Loan Facility on the terms and conditions agreed between the plaintiff and defendant. As per the terms and conditions of the agreement, the defendant was required to pay the outstanding amount before due date.

2.3. That the defendant failed and neglected to pay the outstanding amount and as a result of which, the amount remained due and payable by him to the plaintiff. That plaintiff had made innumerable request and calling upon the defendant to make the outstanding payment with interest, however, the defendant failed and neglected to make payment to the plaintiff. That the plaintiff has maintained books of account and as per the statement of account of the defendant is liable to pay the dues to the plaintiff.

2.4. The plaintiff is entitled to recover the amount from the defendant as under:-

Statement of Account
As per records maintained by the plaintiff (as on 21/03/2022) Rs.5,72,485/-

Therefore, the plaintiff is entitled to recover a sum of Rs.5,72,485/- with further interest till realization of the amount.

2.5 That to resolve the dispute amicably between the plaintiff and the defendant, the plaintiff had filed commercial pre-litigation mediation application No.217/2011 before the City Civil Legal Service Committee Ahmedabad. Accordingly, the City Civil Legal Service Committee has issued Non Starter Report on 18/12/2021. in these circumstances, the plaintiff has been constrained to file the present suit.

3. Summons of the present suit was served to the defendant on 04/05/2023 as per the report of Bailiff. However, neither the defendant nor his learned Advocate appeared

before the Court within the stipulated period to contest the present suit. Further, more than 120 days have expired and no written statement has been filed by the defendant, hence rights of the defendant to file the w.s. was closed vide order dated 19.10.2023.

4. In light of contentions raised in the plaint, following issues came to be framed by this Court vide Exhibit-11 for adjudication of the present suit.

ISSUES

1. Whether the plaintiff proves that the plaintiff is entitled for recovery of Rs.5,72,485/- from the defendant?
2. Whether the plaintiff proves that the plaintiff is entitled for pendente lite as well as future interest on the recovery amount, if yes, at what rate and what period?
3. What order and relief ?

5. My findings on each of the Issues are as under.

FINDINGS

1. In “**partly affirmative**”.
2. As per final order.

6. The plaintiff has produced the following oral as well as documentary evidences in support of his plaint.

ORAL EVIDENCE:

Sr. No.	Description	Exhibit
1	Examination in Chief of Nishant Umeshdutt Pandey i.e. authorized signatory of the plaintiff.	21

DOCUMENTARY EVIDENCES:

Sr. No.	Description	Exhibit
1	True copy of Power of Attorney	12
2	Original Preliminary Credit Facility Application Form along with KYC.	13
3	Original Certificate issued under the Banker's Books Evidence Act.	14
4	Copy of Loan Recall Notice	15
5	Copy of Loan Account Statement of the Defendant.	16
6	Original Credit Facility Application Form	17
7	Original Unattested Deed of Hypothecation	18
8	Original P.O.A of Defendant	19
9	Original Key fact statement & most important Information.	20

-:: REASONS ::-

ISSUE NOS.1 & 2 :-

7. The provision under Section 2(i)(c) of the Commercial Courts Act includes disputes of ordinary transactions of merchants, bankers, financiers and traders such as those relating to mercantile documents including enforcement and interpretation of such documents. The definition naturally will cover the dispute of all kinds of ordinary transactions of merchants, bankers, financiers and traders. The banks are established under Banking Regulation Act for the purpose of business and commerce, naturally all transaction of bank about giving of loans, recovery thereof, deposits in banks etc., should fall within the category of commercial dispute. If the specified value there of is more than Rs.3,00,000/-. So the facts which pleaded in the plaint comes under the commercial dispute.

8. In order to decide the Issue Nos.1 and 2, the learned Advocate for the plaintiff has mainly relied upon Copy of Loan Account Statement at **Exhibit – 16,** Original Unattested Deed of Hypothecation at **Exhibit - 18,** Original Credit Facility Application Form **at Exhibit-17.** Further the signatory person of the plaintiff i.e. Nishant Umeshdutt Pandey has filed his examination-in-chief at

Exhibit-21 in proof of documents on which the claim of the plaintiff is based. As per the Original Credit Facility Application, the defendant had applied for the Auto Loan Facility from the plaintiff to purchase Super Carry Commercial Vehicle. In Unattested Deed of Hypothecation, the amount of facility and other details are mentioned. The documents filed on record by the plaintiff clearly prove that Auto Loan Facility was availed by the defendant for purchasing commercial vehicle. Further the statement of accounts duly certified is filed at **Exhibit - 23,** statement of account produced at **Exhibit - 16** which shows that total receivable amount as on 19/03/2022 Rs.5,72,485/- The statement of account is supported by affidavit / Certificate under the Bankers' Books of Evidence Act, 1891, vide **Exhibit – 14**. Therefore, in view of the evidence led by the plaintiff, the plaintiff is entitled to recover a sum of Rs.5,72,485/- from the defendants. Despite service of summons the defendant did not appear in the present suit and the contents of the plaint as well as the documents produced on the record of the suit have remained unchallenged hence, the plaintiff has proved its case through documentary evidence. The plaintiff has claimed interest at the rate of 14.03% per month till realization of dues. I find it to be on very high side. Therefore, in the opinion of the Court, future interest **@ 7% per annum** is sufficient to meet with the ends of justice. Accordingly, the Issue No.1 is decided in **partly affirmative.**

ISSUE NO.2 :-

9. In view of the foregoing discussion, this Court comes to the conclusion that the plaintiff is entitled to recover the amount of Rs.5,72,485/- **(Rupees Five Lacs Seventy Two Thousand Four Hundred Eighty Five Only)** from the defendant along with interest @ 7% per annum from the date of filing of the present suit till realization of the amount. Hence, following order ensues:-

ORDER

(1) The present suit is hereby ordered to be decreed.

(2) The defendant is hereby ordered to pay an amount of Rs.5,72,485/-**(Rupees Five Lacs Seventy Two Thousand Four Hundred Eighty Five Only)** to the plaintiff with interest at the rate of 7% per annum from the date of filing of the present suit till realization of the amount by the defendant.

(3) The defendant is also ordered to pay costs of the suit to

the plaintiff.

(4) Decree sheet be prepared accordingly.

Judgment pronounced in the open Court on **30th day of March, 2024.**

Date : 30/03/2024
Place : Ahmedabad.

(HARDIK PINAKIN MEHTA)
Judge, Commercial Court,
City Civil Court, Ahmedabad
Unique ID Code No.GJ00629

Alkesh