Filed on :	**29.06.2022**		
Registered on :	**29.06.2022**		
Decided on :	**27.06.2024**		
Duration :	**Yrs**	**Mts**	**Dys**
	01	**11**	**29**
Exhibit :			

IN THE COMMERCIAL COURT AT CITY CIVIL COURT, AHMEDABAD

COMMERCIAL CIVIL SUIT NO.502 OF 2022

Plaintiff : ICICI Bank Ltd.
Through its Power of Attorney Holder
Mr. Nishant Pandey

Versus

Defendant : Labhubhai Saharbhai Rabari
Add: Room No.25/216, Mangaltirth Raw House, Ghodasar, Ahmedabad.

Suit filed under provision of Commercial Courts Act, for recovery of outstanding loan amount of Rs.11,56,652/-.

Appearance:-

Mr. Kalpesh R. Patel - learned Advocate for the Plaintiff.
None appeared on behalf of the defendant.

JUDGMENT

1. The plaintiff bank has filed this suit against the defendant to recover an outstanding amount of loan account of defendant in tune of Rs.11,56,652/- together with future interest from the date of suit till realization with costs, charges and expenses.

2. The plaintiff bank has filed this suit to recover the outstanding loan amount from the defendant. It is the case of the plaintiff bank that an Auto Loan Facility but failed to repay the loan amount as per the terms and conditions.

The suit amount is remained outstanding including interest of the said loan. That bank has filed this suit.

3. The summons was served to the defendant by public notice. The summons could not be served upon the defendant through the bailiff or through post and therefore, upon an application tendered on behalf of the plaintiff for publication of summons in daily newspaper which was accordingly granted. Consequently, public notice came to be published in the Daily Sandesh Newspaper. However, the defendant has failed to appear before this Court. As such, suit is proceeded ex-parte.

4. The plaintiff bank has produced documents at Exh.21 to 24 & 28 The newspaper wherein, the public notice has been published has also been produced on record. The affidavit in lieu of examination in-chief in support of the plaint submitted by authorized signatory of the plaintiff bank. The statement of truth is on record.

5. My learned predecessor Judge has framed issues at exh.18 which are as under;

   1. **Whether the plaintiff proves that plaintiff is entitled to recover a sum of Rs.11,56,652/- 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 for what period?**
   3. **What order and decree?**

6. My reply of the above issues are as under;

   1 & 2 In partly affirmative.
   3. As per final order.

7. Heard the learned advocate for the plaintiff. He has

submitted that the plaintiff bank has provided loan facility to the defendant. The suit amount was remaining outstanding of the said loan account on the date of filing of the suit. The bank has produced the various documents in support of its suit. The defendant has failed to appear and also failed to file written statement. This is a suit for recovery filed under the provisions of The Commercial Courts Act and so, a decree in view of the provisions of the said Statute may kindly be passed in favour of the plaintiff bank as prayed for.

REASONS

ISSUE NO. 1 & 2:-

8. This is uncontested exparte suit of the plaintiff bank who has filed this suit for recovery of outstanding amount to the loan account of the defendant as defendant failed to repay the loan as per the terms and conditions agreed between the parties. The plaintiff has produced various documents in support of the suit. Perusing the affidavit of the plaintiff's officer and documentary evidence, i.e. loan agreement and other documents and statement of the loan accounts, from Exh.11 to 24 & 28, it becomes clear that the defendant received loan from the plaintiff bank.

9. The defendant has failed to repay the loan amount as per the terms and conditions. Perusing the all evidence on record, it seems, that the suit amount is an outstanding amount of the loan account of the defendant at the time of filing of the suit. The loan was sanctioned in year of

2017 the suit is filed in the year of 2022. As such, the suit is within time.

10. This suit is filed under the provisions of The Commercial Courts Act. The documents produced by the bank are not denied by the other side. The defendant failed to appear.

11. The CPC Order XXXVII R.2(3) says that the defendant shall not defend the suit referred to in Sub-Rule (1) unless he enters and appears 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. Whereas, CPC O.VIII R.5 says that where the defendant has not filed a pleading, it shall be lawful for the Court to pronounce judgment on the basis of the facts contained in the plaint, except as against a person under a disability. Moreover, CPC O.VIII R.10 says that where any party from whom a written statement is required under R.1 or R.9 fails to present the same within the time permitted or fixed by the Court as the Court may be, the Court shall pronounce judgment against him or make such order in relation to the suit as it thinks fit and on the pronouncement of such judgment a decree shall be drawn up.

12. Amid to note that the Commercial Courts Act is enacted with special object for speedy disposal of cases instituted. Here, in this case, the defendant received loan from the plaintiff bank and failed to repay the said loan. The

Commercial Courts Act provide the definition of the commercial dispute in Sec.2(1)(c). This suit falls in the said definition.

13. From all the above reasons the plaintiff's suit deserves to be decreed as prayed for. The interest as prayed by the bank is as per agreement of loan. Therefore, the rate of interest claimed by the plaintiff bank is also awarded. Hence, the following final order is passed:

ORDER

i. The present commercial civil suit No.502/2022 is hereby ordered to be decreed in favour of plaintiff bank.

ii. The defendant **Labhubhai Saharbhai Rabari** is hereby ordered to pay an amount of **Rs.11,56,652/- (Rupees Eleven Lacs Fifty Six Thousand Six Hundred Fifty Two only)** to the plaintiff bank ICICI with pendente lite and future interest at the rate of 24% per annum from the date of filing the present suit i.e. 29/06/2022 till the payment made by the defendant.

iii. The defendant is also ordered to pay the costs of the suit to the plaintiff.

iv. Decree shall be drawn accordingly.

Judgment passed in the open Court on 27th June, 2024.

Date : 27.06.2024
Place : Ahmedabad.

(Manoj B. Kotak)
Judge, Commercial Court,
City Civil Court, Ahmedabad.
Unique ID Code No.GJ00718

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