IN THE COMMERCIAL COURT, KOTTARAKKARA

Present:- Sri. Shanavas. A, Judge, Commercial Court(Civil Judge (Senior Division))
On Thursday the 14th day of November, 2024/23rd day of Karthika, 1946.

CS.No: 12/2024

Between

Plaintiff:-

The Federal Bank Ltd., having its registered
Office at Aluva, Kerala and one branch at Kokkadu,
Chakkuvarakkal Village, Kottarakkara Taluk.

By Adv. Sri. C.N. Sivankutty &
Adv. T.V. Syril Panicker.

And

Defendants:-

1. M/s. U.K. Traders, Venchembu (PO),
Karavalur, Punalur Taluk, Pin – 691333.

2. Shanavas Khan. U.K, aged 57 years,
S/o. Usman Khan, Khan Nivas, Venchembu (PO),
Karavaloor Village, Punalur Taluk, Kollam District.

3. Nafeesa, aged 55 years, W/o. Shanavas Khan. U.K,
Khan Nivas, Venchembu (PO), Karavaloor Village,
Punalur Taluk, Kollam District.

Exparte.

This Commercial Suit is for realisation of money is filed u/s. 26 O. VII and R 1 to 5 of the Code of Civil Procedure, 1908 r/w Section 6 of the Commercial Courts Act is coming on for final hearing before me on 12.11.2024 and having stood over for consideration to this day, the court delivered the following:-

JUDGMENT

Suit for realisation of money.

2. **Plaintiff's case in brief is as follows:-** Plaintiff is Scheduled bank having its head office at Aluva and one of its branch among other places at

Kokkadu. The manager of the bank is competent to verify and institute the suit, as he is one of Principal Officers of the Bank. The first defendant is a sole proprietary concern owned by the second defendant. The defendant No. 2 approached the plaintiff bank for financial assistance for its term loan requirement of the business of “M/s.U.K Traders” for the purpose of working capital requirements. The 3rd defendant is the co-obligant. Accordingly, the plaintiff sanctioned a loan for ₹ 5,00,000/- and the defendant availed the same by executing necessary documents. On the same day Sri. Shanavas Khan U.K, defendant No.2 had availed an agricultural cash credit loan of ₹ 4,00,000/- for seasonal agricultural operation on executing necessary document in favour of the plaintiff bank. Thereafter during the Covid pandemic the defendant availed GECL term loan of ₹ 98,000/- by executing necessary documents. Though the defendants mortgaged 00.81 Ares of immoveable property owned by defendant No. 3 as collateral security, the defendants did not repay the loan amount. The plaintiff availed the mandatory pre institution mediation. As the defendants did not turn up a non-starter report was given. Therefore, the plaintiff had approached the court for realisation of plaint amount with interest as per law.

3. Though the summons was served to the defendants they did not appear and contest the suit. Hence they were called absent and set exparte.

4. The manager of the plaintiff bank filed affidavit in lieu of examination in chief and examined as PW1. Ext. A1 to A24 were marked. Ext. A1 is the demand Promissory note for payment of ₹ 5,00,000/- . Ext. A2 is the term loan agreement. Ext. A3 is the Security delivery letter. Ext. A4 is the balance confirmation letter. Ext. A5 is copy of the legal notice issued to the defendants. Ext. A6 is the postal receipts. Ext. A7series is the acknowledgment cards. Ext. A8 is the certified copy of memo of account of loan account No. 13276900001729. Ext. A9 is the Non-Starter Report.

Ext.A10 is the demand Promissory note for payment of ₹ 4,00,000/-. Ext. A11 is the FKCC Agreement in favour of the plaintiff bank dated 04/01/2024. Ext. A12 is the security delivery letter. Ext. A13 is the copy of legal notice issued to the defendant dated 08/07/2024. Ext. A14 is the postal receipts. Ext. A15series is the acknowledgment cards. Ext. A16 is the certified copy of the memo of account of loan account No. 113275500009728. Ext. A17 is the GECL agreement in favour of the plaintiff bank. Ext. A18 is the copy of legal notice. Ext.A19 is the certified copy of memo of account of loan account No. 13276900001778. Ext. A20 is the digital copy of loan reference No. L N 32146677. Ext. A21 is the digital copy of BYOM Loan Terms and Conditions dated 25/04/2024. Ext. A22 is the copy of legal notice. Ext. A23 series is the postal receipts. Ext. A24 is the certified copy of memo of account of loan account No. 13277600002611. The oral evidence of PW1 coupled with the documentary evidence would prove the case of the plaintiff. The unchallenged evidence entitled the plaintiff for the relief as sought for.

5. In the result, the suit is decreed. The plaintiff is entitled to realise an amount of ₹.13,31,794/- (Thirteen Lakh Thirty one Thousand Seven Hundred and Ninety Four only) from the defendants and their assets at the rate of 6% interest per annum from the date of suit till the date of realization. Costs shall be follow the event. Hence the defendants do pay costs of the suit to the plaintiff.

(Dictated to the confidential assistant, typewritten by her, corrected and pronounced in open court on this 14th day of November 2024.)

Sd/-

SHANAVAS. A
Judge, Commercial Court.

APPENDIX:-

Exhibits marked for the Plaintiff :-

A1 : 04.01.2020	-	Demand Promissory note for ₹. 5,00,000/-
A2 : 04.01.2020	-	Term loan agreement executed by Shanavas Khan. U.K and Nafeesa in favour of the Federal Bank Ltd.
A3 : 04.01.2020	-	Security delivery letter.
A4 : 07.01.2022	-	Acknowledgment of debt and security.
A5 : 09.07.2024	-	Advocate Notice to defendants 1 to 3.
A6series 9.7.'24 A6(a) to A6(c)	-	Postal receipts (3 Nos.)
A7series - A7(a) to A7(c)	-	Acknowledgment cards (3 Nos.)
A8 : 19.07.2024	-	Copy of Statement of Account with certificate for the period from 04.01.2020 to 19.07.2024.
A9 : 19.09.2024	-	Non-starter report.
A10: 04.01.2020	-	Demand Promissory note on ₹.4,00,000/-
A11: 04.01.2020	-	Agreement for Agricultural loans executed by Shanavas Khan. U.K and Nafeesa in favour of the Federal Bank Ltd.
A12: 04.01.2020	-	Security delivery letter.
A13: 09.07.2024	-	Advocate notice to Defendants 2 & 3.
A14series – 9.7.'24 A14(a) & A14(b)	-	Postal receipts (2 Nos.)
A15series - A15(a) & A15(b)	-	Acknowledgment cards (2 Nos.)

A16: 27.09.2024	-	Copy of statement of Account with certificate for the period from 04.01.2020 to 25.09.2024.
A17: 06.06.2020	-	Agreement for guaranteed emergency credit line executed by Shanavas Khan. U.K and Nafeesa in favour of the Federal Bank Ltd.
A18: 09.07.2024	-	Copy of Advocate notice to D1 to D3.
A19 : 19.07.2024	-	Copy of Statement of Account with certificate for the period from 06.06.2020 to 19.07.2024.
A20 : 25.04.2020	-	Digital copy of Customer details of Loan reference No. LN32146677.
A21 : -	-	Copy of terms and conditions of BYOM Loans.
A22 : 26.09.2024	-	Advocate Notice to D2.
A23series – 26.9.'24 A23(a) & A23(b)	-	Postal receipts (2 Nos.)
A24 : 27.09.2024	-	Copy of Statement of Account with certificate for the period from 25.04.2020 to 25.09.2024.

Exhibits marked for the Defendants :- Nil

Witness Examined for the Plaintiff :-

PW1: 12.11.2024 - Adarsh.

Witness Examined for the Defendants :- Nil

Sd/-
Judge, Commercial Court.

Typed by : Sheela.M.S.
Compd.by : Adya.G.S