MHCC040055442019

Presented on : 15-07-2019
Registered on : 09-08-2019
Decided on : 24-08-2023
Duration : 4 yrs, 1 ms, 9days

Exh. 23

**IN THE CITY CIVIL COURT AT DINDOSHI
(BORIVALI DIVISION), GOREGAON, MUMBAI**

SUMMARY SUIT NO. 279 OF 2019

ICICI Bank Limited,
Banking Company incorporated
under the Companies Act, 1956
and licensed as a bank under the
Banking Regulation Act, 1949 and
having its registered office at
ICICI Bank Tower, Near Chakli Circle,
Old Padra Road, Vadodara- 390 007,
Gujrat and having Corporate Office
at ICICI Bank Towers, Bandra-Kurla Complex,
Bandra (E), Mumbai- 400 051
Through its Power of Attorney Holder
Ms. Shilpa Nikam D/o. Mr. Vasant Nikam,
The Debt Manager, Age 34 years. **......Plaintiff**

Vs.

Abdul Halim Mohammed Ilyas Shaikh,
Aged 35 years, Occupation: Service,
Residing at 27/07, 1 Block,
Hussain Zariwala Chawl, Iddgha Maidan,
Jogeshwari (East), Mumbai- 400060. **......Defendant**

Appearances-
Adv. Aditi Jadhav, the Ld. Counsel for plaintiff.
Defendant proceeded ex-parte.

Coram : Her Honour Judge,
Smt. V.D. Ingle
(C.R.No.02)
Date : 24th August, 2023

ORAL JUDGMENT

1. This is the suit filed for recovery of an amount of **Rs.2,91,716/-** (Rupees Two Lacs Ninety One Thousand Seven Hundred Sixteen Only) along with interest @ 24% p.a. from the date of filing of the suit till realisation of entire amount.

2. Briefly stated, plaintiff's case is as under:-

2.1 Plaintiff is a Public Limited Company under the provisions of the Companies Act 1956 and a banking company under the provisions of the Banking Regulation Act, 1949, also a scheduled Bank and carrying on business of banking. And the present suit is filed through its Power of Attorney holder Ms. Shilpa Nikam D/o. Mr. Vasant Nikam.

2.2 Defendant had approached plaintiff bank for availing a Personal Loan of Rs.3,50,000/- (Rupees Three Lacs Fifty Thousand Only), in the month of February, 2017. The plaintiff bank after being satisfied with the creditability of the defendant, agreed to grant/ sanction a Personal loan facility of Rs.3,50,000/- (Rupees Three Lacs Fifty Thousand Only) to the defendant. Accordingly executed necessary documents in favour of the plaintiff Bank and agreed to repay the said loan as per agreed rate of interest. The rate of interest for the Personal loan facility at the time of sanction was 15.50% p.a. The said Personal loan was repayable in 60 equated monthly installments of Rs.8,405/-

(Rupees Eight Thousand Four Hundred Five Only) each commencing from 10/03/2017 to 10/02/2022.

2.3 However, defendant failed to repay the said loan. The last payment received from the defendant was on 28/01/2019. On 10/10/2018 the defendant account classify as non performing asset therefore, the plaintiff issued loan recall notice dated 18/01/2019 to the defendant and demanded the said amount. However, defendant failed to repay the said outstanding amount. Hence, the plaintiff constrained to file the present suit.

3. The defendant served with the writ of summons. Accordingly, plaintiff filed affidavit of service vide Exh.10. Despite of service of writ of summons, defendant did not appear. Therefore, suit proceeded ex-parte against the defendant on 04/01/2023.

4. From the averments in the plaint, documents filed on record and argument of the learned counsel for the plaintiff, the following points arise for my consideration and determination and I have recorded my findings against them for reasons stated below:-

Sr. No	**POINTS**	**FINDINGS**
1)	Does plaintiff prove that defendant availed Personal loan of Rs.3,50,000/- (Rupees Three Lacs Fifty Thousand Only)?	In affirmative.
2)	Does plaintiff prove that an amount of Rs.2,66,097/- (Rupees Two Lacs Sixty Six	In affirmative.

	Thousand Ninety Seven Only) is outstanding against the defendant towards the arrears of Personal loan?	
3)	Whether the plaintiff is entitled for interest as agreed?	In affirmative.
4)	What order & decree?	As per final order.

R E A S O N S

As to Point Nos.1 to 4 :-

5. In order to avoid repetition and for sake of convenient, I proceed to discuss point No.1 to 4 conjointly.

6. In order to establish its claim, the plaintiff has examined its Constituted Attorney named Mr. Ravikumar S/o. Dharmveer Singh PW 1, who is working as Debt Manager and a Constituted Attorney of the plaintiff. He has placed on record his affidavit in lieu of examination in chief in consonance with the averments in the plaint at Exh.11. So far as documentary evidence are concerned, the plaintiff has placed on record the following documents:

1) Exh.13 – Verified True copy of power of Attorney

2) Exh.14 – Original Preliminary Credit Facility Appliation.

3) Exh.15 – Original Credit Facility Application Form

4) Exh.16 – Original of Loan Terms and Conditions

5) Exh.17 – Officer copy of Loan Recall Notice issued with postal receipt.

6) Exh.18 – Certified copy of statement of Accounts.

7) Exh.19 – Original certificate under section 2-A of the Amended Bankers Books of Evidence Act, 1891.

8) Exh.20 – Original particulars of claim.

7. Heard the learned counsel for the plaintiff and also gone through the written notes of argument Exh.22. It is needless to say that as the suit proceeded ex-parte, therefore, the testimony of PW No.1, Mr. Ravikumar S/o. Dharmveer Singh remained unchallenged.

8. Even otherwise also from Preliminary Credit Facility Application vide Exh.14, Credit Facility Application Form vide Exh.15 and Statement of Accounts vide Exh.18, its reveals that the defendant availed the Personal loan of Rs.3,50,000/- (Rupees Three Lacs Fifty Thousand Only). Further more, its reveals that the defendant agreed to repay the said loan with interest at the rate of 15.50% per annum in 60 equated monthly installments of Rs.8,405/- (Rupees Eight Thousand Four Hundred Five Only) each commencing from 10/03/2017 to 10/02/2022.

9. According to the plaintiff, defendant failed to repay the said Personal Loan and an amount of Rs.2,66,097/- (Rupees Two Lacs Sixty Six Thousand Ninety Seven Only) is outstanding against the defendant on 08/03/2019 alongwith penalty for delayed repayment. Its reveals from above documents, that the penalty for delayed repayment was agreed Plus applicable Taxes or other statutory levies, if any. From the statement of Accounts vide Exh.18, its reveals that an amount of Rs.2,66,097/- (Rupees Two Lacs Sixty Six Thousand Ninety Seven Only) is outstanding towards the principal amount alongwith interest and penalty charges on 08/03/2019 excluding the future EMI alongwith penalty for delayed repayment. Thus, the plaintiff is entitled for agreed

rate of interest since 08/03/2019 till realisation of entire outstanding amount.

10. Thus, from unchallenged testimony of PW No.1 coupled with documentary evidence, its proved that an amount of Rs.2,66,097/- (Rupees Two Lacs Sixty Six Thousand Ninety Seven Only) is outstanding against the defendant. Therefore, the defendant is liable to repay the said amount to the plaintiff with agreed interest @ 15.50% p.a. from 08/03/2019 till realization of entire amount. Accordingly, I recorded my findings to point Nos.1 to 3 in the affirmative and proceed to pass the following order:

ORDER

1) Suit is decreed with costs.

2) Defendant do pay an amount of **Rs.2,91,716/-** (Rupees Two Lacs Ninety One Thousand Seven Hundred Sixteen Only) along with interest @ 15.50% p.a. from the date of filing of the suit till realisation of entire outstanding amount to the plaintiff.

3) Decree be drawn up accordingly.

Digitally signed by VAISHALI DAMODAR INGLE
Date: 2023.09.02 12:14:00 +0530

Date : 24.08.2023 **(Smt. V.D. Ingle)**
Judge
City Civil Court,
(Borivali Division),
Dindoshi, Goregaon,
Mumbai

Date of dictation	:	24.08.2023
Date of transcription by steno	:	25.08.2023
Checked & signed by HHJ on	:	02.09.2023

"CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER." Mrs. J. S. Gole 02.09.2023 at 12.13 p.m. (H.G.STENOGRAPHER) UPLOAD DATE AND TIME NAME OF STENOGRAPHER	
Name of the Judge (With Court Room No.)	H.H.J Smt. V. D. Ingle (Court Room No.2)
Date of pronouncement of Judgment/Order	24.08.2023
Judgment/Order signed by P.O. on	02.09.2023
Judgment/Order uploaded on	02.09.2023