

**MONEY SUIT NO. 90/2019**

**High Court Form No. (J) 2.**

Heading of Judgment in Original Suit

District: DIBRUGARH

IN THE COURT OF THE MUNSIF NO.3, DIBRUGARH

**Present: SMTI. SANSKRITA KHANIKAR, AJS.**

**MUNSIF No.3, DIBRUGARH.**

Saturday, the 29<sup>th</sup> day of January, 2022.

**MONEY SUIT NO. 90/2019**

**IDBI Bank Limited.....Plaintiff**

**-vs-**

**Sri Baba Chungkrang .....Defendant**

This suit coming on for final hearing on 06-01-2022 in the presence of:-

Advocate for the Plaintiff : Learned Mr. Jainuddin  
Ahmed

Advocate for the defendant : Learned Sri Anuj Chetry

And having stood for consideration to this day, the Court delivered the following judgment:

**JUDGMENT**

**1.** In brief, the case of the plaintiff is that the defendant being in need of financial assistance approached the plaintiff bank by a loan application on 11-02-2016 with a request to grant Kisan Credit Card (K.C.C. Scheme) loan facility to him. That after considering the requirement of the defendant, the plaintiff bank sanctioned a term loan of Rs. 50,000/- vide a sanction letter dated 11-02-2016 subject to acceptance of the terms and conditions of the said sanctioned letter, the copy of which was duly acknowledged by the defendant thereof. Subsequently, the defendant executed demand promissory note for Rs. 50,000/- and 'deed of hypothecation' on 11-02-2016 thereby agreeing to repay the loan amount as per the terms of the agreement thereof. Though the defendant accordingly availed and enjoyed the said loan facilities but thereafter failed to make payment thereof as per terms and conditions of the said loan agreement inspite of balance confirmation on 31-03-2017 and inspite of receipt of demand letter dated 10-07-2018. As the defendant inspite of repeated requests and demands by the plaintiff bank, and even inspite of the receipt of the demand letter and

## **MONEY SUIT NO. 90/2019**

execution of balance confirmation failed to pay the loan amount with interest, the plaintiff bank has been compelled to file the instant suit for recovery of the loan amount with up to date interests and costs. After adjustment of all amount drawn by the defendant and after accrual of interests from time to time, all charges thereon etc. inclusive of interests up to 01-07-2018, a total sum of Rs. 60,543/- in the said loan account has become due and outstanding in the said loan accounts of the defendant and the payment of which the defendant is liable to pay to the plaintiff as well. Hence, the plaintiff has filed this suit against the defendant for realisation of the loan amount along with other reliefs as mentioned in the plaint itself.

**2.** Upon issuance of summons to the defendant, the defendant filed the written statement on 28-11-2019 but during the stage of issues and documents the defendant remained absent without step on 16-09-2021 for which the suit proceeded ex-parte against him.

**3.** In his written statement, the defendant submitted that there is no cause of action for instituting the suit as it is time barred for expiry of

**MONEY SUIT NO. 90/2019**

period of 3 years from the date of execution of promissory note. The defendant has denied the contents of para no. 6 of the plaint in toto and has also denied the receipt of any demand letter dated 10-07-2018 but as far as the other averments of the plaint is concerned, the defendant has simply submitted that the same are a matter of record and anything inconsistent with the record is denied by the defendant.

**4.** During trial, the plaintiff examined one witness namely Sri Seiminthang Haokip being the Asst. General Manager and Branch Head of IDBI Bank, Dibrugarh Branch as PW-1 and has exhibited some documents in support of his claim. The defendant having remained absent, did not avail the opportunity to cross examine the witness of the other side. I have heard the contentions and the submissions put forth by the learned counsel for the plaintiff.

Perused the case record in its entirety.

**5.** After hearing the plaintiff and on perusal of case record, for convenience in adjudicating the suit,

**MONEY SUIT NO. 90/2019**

the following points for determination have been framed:

- (1)** Whether the suit is barred by limitation?
- (2)** Whether the plaintiff is entitled to the decree as prayed for?
- (3)** To what other relief or reliefs is the plaintiff entitled to?

**DECISIONS AND REASONS THEREOF:**

**6. POINTS FOR DETERMINATION NO. 1, 2 & 3:**

PW.1 Sri Angshuman Das is the Asst. General Manager and Branch Head of IDBI Bank, Dibrugarh Branch P.O: Dibrugarh and he represents the plaintiff bank in the instant suit. He deposed that the bank has filed the suit against the defendant for recovery of money with interest and cost. Having gone through the documentary evidence and oral evidence adduced by the plaintiff side it is found that the plaintiff as PW-1 in his evidence in affidavit reiterated whatever he has stated in the plaint.

In support of the plaintiff's claim, the plaintiff has exhibited 07 (seven) nos. of documents which are as follows:

**MONEY SUIT NO. 90/2019**

**Exhibit -1:** Loan application, Exhibit 1(1) is the signature of the defendant

**Exhibit-2:** Letter of Intent/Sanction Letter, Exhibit 2(1) is the signature of the Manager, Exhibits 2(2) to 2(5) are the signatures of the defendant

**Exhibit-3:** Demand Promissory Note, Exhibit 3(1) is the signature of the defendant

**Exhibit-4:** Deed of hypothecation, Exhibits 4(1) to 4(18) are the signatures of the defendant

**Exhibit-5:** Balance Confirmation, Exhibit 5(1) is the signature of the defendant

**Exhibit-6:** Demand Notice, Exhibit 6(1) is the signature of the Manager

**Exhibit-7:** Certified copy of the Statement of Account, Exhibit 7(1) is the signature of the Manager

- 7.** It has also been deposed that after adjustment of all amount drawn by the defendant and after accrual of interests from time to time, all charges thereon etc. inclusive of interests up to 01-07-2018, a total sum of Rs. 60,543/- in the said loan account has become due and outstanding in the said loan accounts of the defendant and the payment of which the defendant is liable to pay to the plaintiff as well.

**MONEY SUIT NO. 90/2019**

**8.** Even though the suit was proceeded ex-parte against the defendant, he has been at liberty to cross-examine the plaintiff witness on the points of law to demolish the plaintiff claims and to challenge the genuineness of the documents exhibited by the plaintiff side. Hence, there is nothing to disbelieve the documentary evidence adduced by the plaintiff in support of his case. Moreover, the evidence in affidavit submitted by the plaintiff witness remains uncontroverted and unrebutted as the defendant inspite of getting sufficient opportunities did not contest the suit. As the genuineness of the exhibits as well as the claims of the plaintiff remained undisputed, the averments made in the plaint are deemed to be true.

Even though the defendant in his written statement had stated that the instant suit is barred by limitation, perusal of the plaintiff exhibits reveals that the suit has been filed well within the period of limitation.

In the absence of anything contrary on the record to the plaintiff's claims, the facts stated by the plaintiff witness on oath in his evidence is deemed to be true. By examining the plaintiff witness and by exhibiting the documents, the plaintiff has substantiated his claims.

## **MONEY SUIT NO. 90/2019**

From the above discussions, it is abundantly clear that the plaintiff is entitled to get the decree as prayed for.

### **ORDER**

**9.** The suit of the plaintiff is decreed ex-parte with costs. The plaintiff is hereby granted with the following reliefs:

**i.** It is hereby declared that plaintiff is entitled to recover the outstanding of loan amount of **Rs:- 60,543/- (Rupees Sixty Thousand Five Hundred Forty Three)** only with interest from the defendant.

**ii.** The defendant is directed to pay the plaintiff **Rs:- 60,543/- (Rupees Sixty Thousand Five Hundred Forty Three)** only with interests pendente-lite from 02-07-2018 till recovery of the loan amount at the contractual rate of interest.

**iii.** Cost of the suit.

**10.** Prepare decree accordingly.

The judgment is delivered and pronounced by me in the open Court today.



**MONEY SUIT NO. 90/2019**

Given under my hand and seal of this Court on the  
29<sup>th</sup> day of January, 2022.

Typed by: Self

Sanskrita Khanikar  
Munsiff No.3, Dibrugarh

**APPENDIX**

**Plaintiff's Witness:** Sri Angshuman Das

**Defendant's Witness:** Nil

**Plaintiff Exhibits:**

1. Exhibit -1: Loan application, Exhibit 1(1) is the signature of the defendant
2. Exhibit-2: Letter of Intent, Exhibits 2(1) is the signature of the Manager, Exhibit 2(2) to 2(5) are the signatures of the defendant
3. Exhibit- 3: Demand Promissory Note, Exhibit 3(1) is the signature of the defendant
4. Exhibit-4: Deed of hypothecation, Exhibits 4(1) to 4(18) are the signatures of the defendant
5. Exhibit-5: Balance Confirmation, Exhibit 5(1) is the signature of the defendant
6. Exhibit-6: Demand Notice, Exhibit 6(1) is the signature of the Manager
7. Exhibit-7: Certified copy of the Statement of Account, Exhibit 7(1) is the signature of the Manager

**Defendant Exhibits:** Nil

Sanskrita Khanikar

Munsiff No.3, Dibrugarh