

HIGH COURT FORM NO. (J) 2.

HEADING OF JUDGMENT IN ORIGINAL SUIT.

IN THE COURT OF MUNSIF NO. 3 AT GUWAHATI.

DISTRICT-KAMRUP

Money Suit Case No. 215/2011

Present:

Naguib Ahmed, A.J.S.
(M.Sc-Agriculture, LL.B)
Munsiff No.3, Guwahati.

30th day of August, 2012

1. Canara Bank

Branch Office-Maligaon

Guwahati-11,

District – Kamrup (M) Assam.....: Plaintiff(s)

-Versus-

1. Sri. Pranab Kr. Das.

S.O: Late Arun Kr. Das.

Resident Address:

Vill: Gotanagar, Near Don Bosco School

P.O: Gotanagar, Guwahati-781033, Assam.

Office Address:

Office of the SSE/P-WAY/CGON

NF Railway

Chaygaon Division

Chaygaon

Assam.

2. Sri. Samsul Haque.

S.O: Late Sadhar Ali.

Resident Address:

**Railway Qtr No. E/2/B
Chaparmukh/ Jagiroad,
District: Nagaon, Assam.**

Office Address:

Office of the SSE/P-WAY

NF Railway

Chaparmukh ,

District: Nagaon, Assam.....: Defendant(s)

3. Assistant Engineer

SSE/P-WAY

N.F Railway, Chaygaon, Assam: Proforma Defendant(s)

This suit coming on for final hearing on 18.08.2012 in the presence of:-

1. Aparna Dev

2. P. Rabha : Advocate for the plaintiff(s)

And

1. None : Advocate for the defendant(s)

and having stood for consideration to this day, the court delivered the following Judgments.

JUDGEMENT

(Suit for recovery of Rs. 66,264/-)

- Plaintiff's case:** The plaintiff is a Nationalized Bank, a body corporate, constituted under the Banking Companies (Acquisition and Transfer of Undertaking) Act 1970, having its Head Office at Bangalore and various other branches throughout the country including one at Maligaon, Guwahati named as Maligaon Branch situated at Maligaon, Guwahati-11 in the district of Kamrup, Assam. The Defendant No.1 is working in the office of the SSE/P-WAY/CGON, N.F Railways, Chaygaon Division, Chaygaon and he applied to plaintiff Bank for loan of Rs. 1,20,000/- (One Lakh Twenty

Thousand) only on 20.03.2007 for personal use. The plaintiff bank sanctioned the loan of Rs. 1, 20,000/- (One Lakh Twenty Thousand) only on 20.03.2007 to the Defendant No.1. The plaintiff bank charged interest @13% per annum compounded monthly for value received. The interest rate has been revised from time to time and it is now fixed at 14.5% and in case of default the defendants are liable to pay overdue interest @2%. An account was opened in the name of the Defendant No.1 bearing CB A/C No. 6259. The Defendant No.1 was to repay the loan at the rate of Rs. 3,220/- (Three Thousand Two Hundred Twenty) only per month in 48 (Forty Eight) equal monthly installments with effect from April 2007. The nature of loan sanctioned by the plaintiff bank to the Defendant No.1 is Can Budget. In consideration of the amount sanctioned the Defendant No. 1 executed Pronote, Take Delivery Letter to DPN loan on 20.03.2007 in favour of the plaintiff bank. The Defendant No.1 also executed Irrevocable Mandate for Deduction from Salary.

2. The Defendant No.2 is the colleague of Defendant No.1 and also employee in the office of the SSE/P-WAY, N F Railway, Chaparmukh, who stood as co-obligant for due repayment of loan of Defendant No.1. The Defendant No.2 agreed to repay all amounts due by the borrower (Defendant No.1) to the plaintiff Bank. The Defendant No.2 also executed Take Delivery Letter to DPN and Pronote on 20.03.2007.
3. The proforma Defendant No.3 is the Assistant Engineer SSE/P-WAY, N F Railway, Chaygaon. It is further stated by the plaintiff that they have not claimed any relief against the proforma Defendant No.3 and the said Defendant No.3 is impleaded in the suit so that the suit can be adjudicated and decided in presence of the said proforma Defendant No.3. That an Irrevocable Mandate was executed by Defendant No.1 to proforma Defendant No.3 for payment of due installment of Rs. 3,220/- (Three Thousand Two Hundred Twenty) only per month by deducting from his salary every month to the plaintiff bank to the credit of subject loan account and in the event of Defendant No.1 ceasing to be in the service of department during the continuation of the subject loan the Defendant No.1 authorized the proforma Defendant No.3 to deduct out of the terminal benefits payable to him and remit to the plaintiff bank in the credit of his loan account for

repayment of entire outstanding balances with up-to date interest. This mandate was confirmed by proforma Defendant No.3.

4. The Defendant No.1 availed the loan amount and paid some of the installment keeping the balance of Rs. 66, 264/- (Sixty Six Thousand Two Hundred and Sixty Four) only with interest as on 21.04.2011. As per agreement the Defendant No.1 had to repay the loan amount of Rs. 1,20,000/- (One Lakh Twenty Thousand) only @ Rs. 3,220/- (Three Thousand Two Hundred Twenty) only per month with effect from April 2007 till liquidation of the loan amount. The defendants have not paid the said amount or any part there of inspite of repeated requests. The plaintiff hence filed the suit for recovery of Rs. 66, 264/- (Sixty Six Thousand Two Hundred and Sixty Four) only from Defendant No.1 and 2.

5. **Plaintiff's prayer:** The plaintiff bank has therefore filed the suit with the following prayers:-

A. A decree of Rs. 66,264/- (Sixty Six Thousand Two Hundred and Sixty Four) only may be passed against the Defendant No.1 and 2 jointly and severally.

B. That interest at the rate of 16.5% compounded monthly on Rs. 66,264/- (Sixty Six Thousand Two Hundred and Sixty Four) only from 22.04.2011 to 02.06.2011 and from 03.06.2011 i.e the date of the institution of the suit till realization of the amount may be passed in favour of the plaintiff bank.

C. Full costs of the suit may also be decreed.

D. Any other relief/ reliefs to which the plaintiff is entitled to under law and equity.

6. Thereafter summons were issued to the defendants. The suit proceeded ex-parte against the defendants.

7. The plaintiff filed evidence of ***PW-1 Rupam Bhagowati*** the Officer and Attorney holder of the plaintiff bank.

The following documents were exhibited by the plaintiff.

Exhibit-1 : Loan application dated 20.03.2007.

Exhibit-1(i) : Signature of Defendant No.1.

Exhibit-1(ii) : Signature of Defendant No.2.

- Exhibit-2** : Take Delivery Letter to DPN dated 20.03.2007.
- Exhibit-2(i)** : Signature Defendant No.2
- Exhibit-2(ii)** : Signature Defendant No.2
- Exhibit-2(iii)** : Signature Defendant No.2
- Exhibit-2(iv)** : Signature Defendant No.2
- Exhibit-2(v)** : Signature Defendant No.2
- Exhibit-2(vi)** : Signature Defendant No.2
- Exhibit-2(vii)** : Signature Defendant No.2
- Exhibit-2(viii)** : Signature Defendant No.2
- Exhibit-3** : Pronote dated 20.03.2007.
- Exhibit-3(i)** : Signature Defendant No.1
- Exhibit-3(ii)** : Signature Defendant No.2
- Exhibit-4** : Declaration regarding “Can budget” loan dated 20.03.2007.
- Exhibit-4(i)** : Signature Defendant No.1
- Exhibit-5** : Irrevocable Mandate for Deduction from Salary.
- Exhibit-5(i)** : Signature Defendant No.1
- Exhibit-6** : Salary Certificate of Defendant No.1
- Exhibit-7** : Acknowledgment of Debt and Security dated 20.01.2010
- Exhibit-7(i)** : Signature Defendant No.1
- Exhibit-8** : Acknowledgment of Debt and Security dated 28.02.2010
- Exhibit-8(i)** : Signature Defendant No.2
- Exhibit-9** : Advocate’s notice dated 09.02.2011.
- Exhibit-9(i)** : Signature of the advocate for the Plaintiff bank.
- Exhibit-9(ii)** : Signature of the advocate for the Plaintiff bank.
- Exhibit-9(iii)** : Signature of the advocate for the Plaintiff bank.
- Exhibit-10** : Postal Receipts.
- Exhibit-11** : Postal Receipts.

- Exhibit-12** : Statement of Accounts.
Exhibit-12(i) : Signature of the Manager Sri. Parimal
Biswas.

8. I have also heard the learned counsel for the plaintiff bank. There is no discrepancy in the evidence advanced by PW-1. As the defendants did not contest the suit, the suit proceeded ex-parte against the Defendants. However there is no reason to disbelieve the pleadings and evidence of the plaintiff. The documents exhibited by plaintiff are duly proved. The suit is filed within time.

After going through all the evidence on record the court find that the plaintiff has been able to prove it's case.

9. **ORDER**

The suit is decreed ex-parte with cost.

The Defendant No.1 and 2 are jointly and severally liable to pay a sum of Rs. 66,264/- (Sixty Six Thousand Two Hundred and Sixty Four) only with cost and rate of interest at the contractual rate w.e.f the date of filing of the suit until repayment.

Prepare decree accordingly.

The case is disposed of ex-parte.

Given under my hand and seal of this court on *30th day of August 2012.*

Naguib Ahmed
Munsiff No.-3, Kamrup,
Guwahati.

APPENDIX

Plaintiff's Witnesses

PW- 1: Rupam Bhagawati.

- Exhibit-1 : Loan application dated 20.03.2007.
Exhibit-1(i) : Signature of Defendant No.1.
Exhibit-1(ii) : Signature of Defendant No.2.
Exhibit-2 : Take Delivery Letter to DPN dated 20.03.2007.
Exhibit-2(i) : Signature Defendant No.2
Exhibit-2(ii) : Signature Defendant No.2
Exhibit-2(iii) : Signature Defendant No.2
Exhibit-2(iv) : Signature Defendant No.2

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Naguib Ahmed
Munsiff No.-3, Kamrup,
Guwahati.