

Assam Schedule VII, Form No 132



HIGH COURT FORM NO. (J) 2
HEADING OF JUDGMENT IN ORIGINAL SUIT/ CASE

District: Baksa, BTAD, Assam

In the Original Court of the Munsiff, Baksa, BTAD, Assam

Present: JAGAT DAS, A.J.S.

Thursday, 29th day of November, 2018

M.S. No-15/18

Plaintiff:

The Canara Bank,
a body corporate constituted under the Banking Companies (Acquisition and transfer of Undertakings) Act, 1970 having its head office at Bangalore and having a Branch Office at Barpeta Road, Dist- Barpeta (Assam), represented by the Branch Manager of the Barpeta Road Branch.

Vs.

Defendant:

Pradip Brahma,
S/o- Harendra Brahma, resident of village- Uttar Safakamar, Mouza- Gobardhana, P.O.- Gobardhana, Dist- Baksa (BTAD), Assam.

This suit/case coming on for final hearing on 29-11-2018 in the presence of Sudeep Saha, the Id. counsel for the plaintiff and none for the defendant.

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

JUDGMENT

1. This is a suit filed by the plaintiff / Canara Bank for recovery of money amounting to Rs.83, 057/- (Rupees Eighty Three Thousand and Fifty Seven) only.

2. **Case of the plaintiff:**

In brief, the case of the plaintiff is that, the defendant approached the plaintiff bank by a common application on 23/12/2014 with a request to

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grant Kisan Credit Card (in short KCC) loan facility to him. That after considering the requirement of the defendant, the plaintiff bank sanctioned a KCC loan of Rs. 80,000/- vide sanction letter dated 23-12-2014 on condition of hypothecation of crops. In due compliance with the formalities as required, the defendant also executed one AGREEMENT OF HYPOTHECATION FOR AGRICULTURAL LOAN in this regard on 23/12/2014. That considering the fact no withdrawal from the account is permissible under the terms and conditions agreed upon and undertaken by the defendant huge amount of money has still remained outstanding in the loan account of the defendant. Finding no alternative, the plaintiff had issued notice to the defendant on 7/1/20/2017 and 4/4/2017 recalling entire outstanding remaining in the loan account. That on 18/09/2017, the plaintiff issued legal notice to the defendant through his advocate Sudeep Saha under registered post demanding liquidation of the outstanding remaining loan amount but the defendant didn't take any step in spite of receipt of notice. The defendant couldn't maintain his account as per term and conditions of the agreement and remain outstanding for more than 12 months. The statement of account maintained by the plaintiff bank transpires an amount of Rs 83,057/- has remained outstanding and owing to the plaintiff by the defendant by way of principal and interest calculated upon 20-10-2017 which amount the defendant is liable to pay together with interim and future interest and cost. Hence the plaintiff has filed this suit against the defendant for realization of the loan amount along with other reliefs as mentioned in the plaint itself.

3. The defendant didn't contest the suit by filing his written statement despite proper service of summons upon him and hence this suit proceeded ex-parte against him.
4. During the course of the trial, the plaintiff side examined one Praween Kumar, Serving Branch Manager of Canara Bank, Barpeta Road Branch as Pw-1 and has exhibited some documents in support of his claims.
5. **Discussions, Decision and Reasons thereof:**
6. I have heard the learned counsel for the plaintiff bank and perused the case record in its entirety. The plaintiff is claiming for recovery of money amounting to Rs.83, 057/- (Rupees Eighty Three Thousand and Fifty Seven) only along with other relief as mentioned in the plaint.

I have carefully perused the exhibit exhibited by the plaintiff side. Having gone through the documentary evidence and oral evidence adduced

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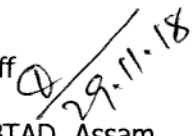
by the plaintiff side it is found that the plaintiff as Pw-1 in his evidence-in-chief reiterated whatever he has stated in his plaint.

In support of the plaintiff's claims plaintiff exhibited 7 (Seven) nos. of documents. Ext-1 is the Loan application dated 23-12-2014. Ext-2 is the sanctioned letter dated 23-12-2014. Ext-3 is the agreement of hypothecation for agricultural loan. Ext- 4 and 5 are the copies of notice dated 07-01-2017 and 4/4/2017. Ext-6 is the pleader notice. Ext-7 is the copy of statement of account.

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 exhibits, but the defendant neither turned up nor challenged the genuineness of the exhibits exhibited by the plaintiff side hence there is nothing on the record to disbelieve the documentary evidence adduced by the plaintiff in support of his case. Moreover, the evidence-in-chief submitted by the plaintiff witness remained undisputed and unrebutted as the defendant in spite of getting sufficient opportunities didn't contest the suit. As the genuineness of the exhibit as well as the claims of the plaintiff is remained undisputed, it is deemed to be true. In absence of anything contrary on the record to the plaintiff's claims, the fact 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.

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

- 7. ORDER**
- 8.** In the result, the suit is decreed exparte with cost with the following reliefs:
(1) A decree for recovery of an amount Rs.83, 057/- (Rupees Eighty Three Thousand and Fifty Seven) only.
(2) A decree for interim and future interest @ 12.5% per annum from the date of filing of the suit till realization of the decretal amount.
(3) The plaintiff has first charge upon the crops standing upon the schedule land of the plaint.
- 9.** Let a decree be drawn up.
- 10.** Given under my hand and seal of this Court on this 29th day of November, 2018 at Baksa, BTAD, Assam

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Appendix

Plaintiff witness: 1. Praween Kumar (PW-1)


Defendant's witness: Nil

Plaintiff Exhibits:

1. Ext-1 is the Loan application dated 23-12-2014
2. Ext-2 is the sanctioned letter dated 23-12-2014.
3. Ext-3 is the agreement of hypothecation for agricultural loan.
4. Ext- 4 &5 are the copies of notice dated 07-01-2017 and 4/4/2017
5. Ext-6 is the pleader notice.
6. Ext-7 is the copy of statement of account.

Defendants Exhibits: Nil



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