

**HIGH COURT FORM NO. (J)2**

***HEADING OF JUDGMENT IN ORIGINAL SUIT/CASE***

DISTRICT: Dibrugarh

**IN THE COURT OF THE MUNSIFF NO.2 AT  
DIBRUGARH**

**PRESENT: Smti. Rituparna Sarmah, AJS**

**Friday, on the 3<sup>rd</sup> day of December, 2021.**

**Money Suit No. 56/20**

STATE BANK OF INDIA

A statutory body corporate constituted under the State Bank of India Act, 1955 having its Head Office at Backbay Reclamation Mumbai, and a local Head Office at Guwahati, & Stressed Assets Resolution Centre, at Dibrugarh and carrying on business of Banking amongst other places at Gabharupathar: Dibrugarh, within the jurisdiction of this Court:

.....PLAINTIFF

-Versus-

Sri Krishna Debnath

S/O Sri Sibuh Debnath

Resident of Naliapool Bazar AT Road, P.O. Dibrugarh:  
Dist-Dibrugarh : Assam and carrying on business of PAN  
SHOP as Sole Proprietor thereof:

..... DEFENDANT

- .....
1. Advocate for the plaintiff: Mr. Jainuddin Ahmed
  2. None appeared for the defendant.

.....

This suit coming on for final hearing on 25<sup>th</sup> day of November, 2021 and having stood for consideration to this 3<sup>rd</sup> day of December 2021, the court delivered the following Judgment:-

### **JUDGMENT**

1. This is a suit for recovery of an amount of Rs.40,184.22 (Rupees Forty Thousand One Hundred and Eighty Four point Twenty Two) from the defendant.
2. **PLAINTIFF'S CASE:** The plaintiff's case is in brief is that the plaintiff is a statutory body duly constituted under the State Bank of India, Act, 1955, having its Head Office at Backbay Reclamation, Mumbai- and local Head Office at Guwahati and Stressed Assets and Resolution Centre, at Dibrugarh, a Central processing Centre and carrying on business of Banking amongst other places of business at Gabharupathar, Dibrugarh.
3. That the defendant being in need of financial assistance for PAN SHOP business, applied for a loan of Rs.50,000/- (Rupees Fifty Thousand) by a loan application dated 12.11.16 under PMMY scheme at the plaintiff branch at

Dibrugarh. That, considering the said loan application the plaintiff's bank sanctioned a term Loan of Rs.50,000/- (Rupees Fifty Thousand) by a Sanction letter dated 30.11.16, subject to acceptance of the terms and condition of the said sanction letter. That the defendant in order to avail the said loan facility in token of acceptance of the terms and conditions of the sanctioned letter executed "an agreement of loan cum Hypothecation dated 22.12.16 agreeing to repay the loan amount as per the terms of agreement thereof.

4. Though the defendant accordingly avail the said loan amount but thereafter failed to make the payment as per the terms and conditions of the loan agreement in spite of execution of Revival letter dated 20.11.19 That in spite repeated request and demand by the plaintiff and even in spite of received the demand letter failed to pay the loan amount with interest. That after adjustment of all amount drawn by the defendant and after accrual of interest from time to time, all charges thereon inclusive of interest up to 16.06.20 a total sum of Rs. Rs.40,184.22 (Rupees Forty Thousand One Hundred and Eighty Four point Twenty Two) in the said loan account has become an outstanding and the payment of which the defendant is liable to pay to the plaintiff. Hence, the plaintiff has filed the instant suit.

5. Summons issued to the defendant returned after due service, but the defendant was absent without step. As such, the suit was proceeded ex-parte against the defendant.
6. During trial, the plaintiff examined one witness and the defendant having remained absent, did not avail the opportunity to cross examine the witness of the other side. 7 (seven) numbers of documents have been produced by the plaintiff in order to substantiate its case.

**POINTS FOR DETERMINATION**

7. As there is no WS in the instant suit hence no issues are framed. However, for the sake of proper adjudication of the case, I have formulated the following points of determination for just decision of the case.
  1. Whether the suit is maintainable in its present form?
  2. Whether the defendant availed any loan from the plaintiff bank by executing relevant documents?
  3. Whether the defendant failed and neglected to repay the loan amount in accordance with terms and conditions?
  4. Whether the plaintiff is entitled to the relief as prayed for and if so, to what extent?

**DISCUSSION, DECISIONS & REASON THEREOF**

8. I have heard Mr. Jainuddin Ahmed, Id. counsel appearing for the plaintiff and have gone through the case record. Upon considering the pleading of the plaintiff, submissions made by the learned counsel for the plaintiff and also after delving into evidences adduced by the plaintiff; my findings and reasons are as follows:
9. **Point of determination no. 1 :** The instant suit relates to the determination of a civil right and enforcement thereof. There is no express or implied bar to the cognizance of the instant suit. Thus in view of section 9 of the Code of Civil Procedure I find and hold that the instant suit is very well maintainable in law and facts. Further, there is a cause of action for this instant suit and the suit is not barred by limitation. Accordingly, this point is decided in favour of the plaintiff.
10. Now for proper adjudication of the matter in hand, the point of determination no. 2 & 3 are taken up together.
11. **Point of determination no. 2 & 3:**  
P.W-1 Smti Usharani Rajkhowa is the Manager and City Case Officer of Stressed Assets Resolution Centre, Dibrugarh in the State Bank of India, Dibrugarh. In his evidence-in-chief in affidavit, he has reiterated the averments made in the plaint. He has also exhibited 7 numbers of documents in support of his averments. From Exhibit-1 i.e the loan application, it appears that the

defendant had applied for a loan of Rs. 50,000/-(Rupees Fifty Thousand) from the Plaintiff bank and Exhibit-1(1) is the signature of the defendant. Exhibit-2 is the letter of arrangement. Exhibit-2(1) is the signature of the manager and Exhibit-2(2) to 2(23) are signatures of the defendant. From Exhibit-2, it appears that after due consideration the plaintiff bank had sanctioned the said amount in favour of the defendant. That the defendant in order to avail the loan facility and in token of acceptance of the terms and condition of the sanctioned letter executed an agreement of loan cum hypothecation i.e Exhibit-3 and Exhibit-3(1) to Exhibit-3(49) are the signatures of the defendant P.W-1 further deposed that the defendant had failed to keep up the commitment undertaken with the plaintiff in regard to the repayment of the loan. That in spite of repeated request and demand made by the plaintiff and even after receipt of demand letter dated 23.05.17, 08.09.17, 05.02.19 and 05.06.19 i.e. Exhibit-4,5,6,7 and even after execution of revival letter failed to pay the loan amount. As such after adjustments of all amount drawn by the defendant and after accrual of interest from time to time, inclusive of interest up to 16.06.20 a total sum of Rs.40,184.22 (Rupees Forty Thousand One Hundred and Eighty Four point Twenty Two) has become due and outstanding in the loan account of the defendant as per the statement of accounts.

Thus, from all documentary evidence as well as from the

oral evidence of the witness it is clear that the defendant took loan amount of Rs. 50,000/- (Rupees Fifty Thousand) only from the plaintiff bank but failed and neglected to repay an amount of Rs.40,184.22/-(Rupees Forty Thousand One Hundred and Eighty Four point Twenty Two) inclusive of interest up to 16.06.20.

As stated above, the defendant did not turn up in spite of receiving summons. Thus the evidence adduced by P.W.1 and the documents exhibited by him has remained unchallenged. It also appears that the documents have been produced from proper custody and proved in due manner. Hence I do not find anything to disbelieve the evidence and the documents produced and exhibited by the plaintiff.

Hence, the point of determination no 2 & 3 are decided in favour of the plaintiff.

12. **Point of determination no. 4:**

In light of the discussions made herein above the plaintiff is entitled to recover a sum of Rs.40,184.22/-(Rupees Forty Thousand One Hundred and Eighty Four point Twenty Two) inclusive of interest up to 16.06.20 at the contractual rate of interest. In addition to that the plaintiff is entitled to the cost of the suit.

**ORDER**

13. The suit is decreed ex-parte with costs. The plaintiff Bank is entitled to recover, from the defendant, an amount of Rs.40,184.22/- (Rupees Forty Thousand One Hundred and Eighty Four point Twenty Two ) with the interest *pendente lite* from 17.06.20 till recovery of the loan amount at the contractual rate of interest.
14. Cost of the suit to be calculated in accordance with law.
15. Prepare a decree accordingly.

Accordingly, the suit is disposed of ex-parte.

The judgment is delivered and pronounced by me in the open Court today given under my hand and seal of this court on this the 3<sup>rd</sup> day of December, 2021.

Typed by me.

**(SMTI. RITUPARNA SARMAH)**

**Munsiff No. 2, Dibrugarh**



**APPENDIX**

**I . Plaintiff's Witness:**

PW1: Smti Usharani Rajkhowa

**II. Plaintiff's Exhibits :**

- Ext.1 : Loan application dated 12.11.16  
Ext. 1(1) : Signature of the Defendant.  
Ext.2 : Letter of Intent/Sanction Letter dated  
30.11.16  
Ext.2(1) : Signature of the Manager.  
Ext.2(2) to 2(23) : Signatures of the defendant.  
Ext.3 : Agreement of Loan cum Hypothecation  
Ext.3(1) to 3(49) : Signatures of the defendant.  
Ext.4 : Demand letter  
Ext.4(1) : Signature of the Manager.  
Ext.5 : Demand letter  
Ext.5(1) : Signature of the Manager.  
Ext-6 : Demand letter  
Ext-6(1) : Signature of the Manager.  
Ext-7 : Demand letter.  
Ext-7(1) : Signature of the Manager  
Ext-8 : Revival letter  
Ext-8(1) to 8(2) : Signatures of the defendant.  
Ext-9 : Certified copy of Statement of Account  
Ext-9(1) to 9(3) : Signature of the Manager.

**III. Defendant's Witnesses :**

Nil

**IV. Defendant's Exhibits :**

Nil

Typed by me.

**(SMTI. RITUPARNA SARMAH)**

**Munsiff No. 2, Dibrugarh**