

31.05.2024

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OA No.826/2023 stands allowed as prayed for, with interest and costs, vide separate order.


Presiding Officer

**IN THE DEBTS RECOVERY TRIBUNAL - I, KARNATAKA
AT BENGALURU**

Dated this the 31st day of May, 2024

**Present: Sri Imtiaz Ali
Presiding Officer**

OA No.826/2023

BETWEEN:

Canara Bank

Having its Branch Office at:

Koppal

Opp. LIC of India

Club Road

Pin-583 231

.. APPLICANT

AND:

Sri Basavaraj

S/o. Pampanna Pattanna Shetty

Aged about 53 years

Residing at:

Irkalgada Village

Koppal Taluk & District

Karnataka-583 231

.. DEFENDANT

Counsels on record/appeared for:

Applicant : Sri M R Shashidar

Defendant : *Ex-parte*

FINAL ORDER

The present OA have been filed by the Applicant Bank under Section 19 of the Recovery of Debts and Bankruptcy Act, 1993, seeking recovery of money of **Rs.52,29,249/- (Rupees fifty-two lakhs twenty-nine thousand two hundred and forty-nine only)** together with costs, interest, etc.

2. The case of the Applicant Bank is that, the Defendant has approached the Applicant Bank for KCCS limit and Term Loan Facility. Accordingly, the Applicant Bank has considered the request of the Defendant and sanctioned the KCCS Limit of Rs.3,50,000/- on 07.02.2006 and Term Loan of Rs.4,00,000/- on 18.10.2006, in terms of the loan agreements. In order to secure the loan, the Defendant have executed documents viz., Agreement and Deed of Hypothecation for Kissan Credit Card, Letters of Revival, Registered Simple Mortgage Deed, Memorandum of Agreement for Agricultural Loans etc.,

3. Further, the Applicant Bank Submitted that, the Defendant has agreed to repay the KCCL of Rs.4,00,000/- with interest at the rate of 12% per annum compounded monthly and had to be repaid in 8 yearly Equated Monthly installments of Rs.50,000/- each.

4. Further, the Defendant have agreed to repay the above loan with variable rate of interest, as applicable from time to time as per the directions of the Head Office/Central Office of the Applicant Bank and penal interest in case of default and keep the accounts regular by paying installments as and when due to the satisfaction of the Applicant Bank, as detailed in the OA by the Applicant Bank.

5. The Defendant after utilising the said loans has failed and neglected to make the repayment of the loans due as agreed and Defendant has not serviced the interest thereon as per the terms and condition agreed by the Defendant. The Defendant have not regularized their account with the Applicant Bank. Therefore, the Loan Account become Non-Performing Asset on 01.01.2020. Hence, the Applicant Bank made personal visit and requested to repay the outstanding amount due but the Defendant has failed to discharge the liability. In spite of repeated requests also the Defendant has failed to pay the outstanding dues and hence the recovery process is initiated to recover the dues.

6. In the light of these factors, it is contended by the Applicant Bank that Defendant are liable to pay a total sum of **Rs.52,29,249/- (Rupees fifty-two lakhs twenty-nine thousand two hundred and forty-nine only)**.

7. After filing this OA, Summons were sent and served to the Defendant through RPAD. When the Defendant are called out, absent and hence, placed ex parte.

8. To prove the case of the Applicant Bank, The Branch Manager, Sri Jagadeesh Gowtam, has filed his affidavit by way of evidence the same

was considered as evidence of AW.1 and marked at Ex.A1 and list of document came to be marked at Ex.A2 and 23 documents came to be marked at Ex.A3 to A25.

9. No evidence on behalf of the Defendant.
10. None appeared at the time of hearing when the matter was posted for arguments and perused the records of the case.
11. Following points arise for my consideration:
 - 1) Whether Plaintiff/Applicant Bank proves its case as contended in the plaint/application?
 - 2) What Order?
12. For the following reasons, I answer the above-referred points in the following manner:

REASONS

13. The Branch Manager of the Applicant Bank came to be examined as AW.1. His affidavit by way of evidence reiterated the facts pleaded in the plaint and his affidavit is also corroborated by the above-referred Ex.A3 to A25 which clearly establish the case of the Applicant Bank to allow the present OA. Added to this, the Defendant have

remained absent, hence it is to be construed that Defendant have admitted the entire case pleaded by the Applicant Bank in the present OA.

14. Therefore, for these reasons, present OA is to be allowed with costs as sought by the Applicant Bank.

ORDER

Present OA stands allowed as prayed for with interest and costs.

In the event of failure of the Defendant to pay the said OA amount, the Applicant Bank is at liberty to sell the schedule properties as mentioned in the main application in accordance with law as sought by the Applicant Bank in the OA.

In spite of sale of the schedule properties, if the OA amount is not fully realised, then the Applicant Bank is at liberty to proceed against the persons and other properties of the Defendant in accordance with law.

Applicant Bank shall file latest Memo of Calculation of OA amount together with interest, costs etc., to be paid by Defendant duly taking into account the amount/s, if any, paid by the Defendant and/or amount realised by sale of assets, etc., during the intervening period after filing



the OA, to enable the office to prepare Recovery Certificate for the amount to be paid by the Defendant to the Applicant Bank.

Office is directed to issue Recovery Certificate as sought by the Applicant Bank in the OA and do the needful as required under the law forthwith.

The Office is directed to issue, as far as possible, free copy of this order to the parties concerned.

(Dictated to the Stenographer, after its transcription and necessary corrections, signed and pronounced by me in the Open Court on this the 30th day of April, 2024)


(Imtiaz Ali)
Presiding Officer
DRT-I, Bengaluru

ANNEXURES**Witness Examined for the Applicant Bank:**

AW-1 : Sri Jagadeesh Gowtam
The Branch Manager of the Applicant Bank

List of Documents Exhibited for the Applicant Bank:

Ex.A-1 : Affidavit of AW-1
Ex.A-2 : List of Documents
Ex.A-3 to A-25 : 23 documents

Witness Examined for the Defendant:

- Nil -

List of Documents Exhibited for the Defendant:

- Nil -

31.5.24
(Imtiaz Ali)
Presiding Officer
DRT-I, Bengaluru

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