31.05.2024

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OA No. 886/2023 stands allowed 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. 886/2023

BETWEEN:

Canara Bank
Jalanagar Branch
No.77, Hiral Complex
Opposite to BDA Office
Vivek Naraga West
Jalanagar, Vijaypur 586101
Represented by its Chief Manager
Sri Nihar Ranjan Misra ... **APPLICANT**

AND:

1. **Sri Chandrashekhar S Pasodi**
   S/o Sri Satappa Pasodi
   Aged about 48 years
   R/at. Shirashyad Village
   Indi Taluk
   Bijapur District 586 114

2. **Sri Gurappa S pasodi**
   S/o Sri Satappa Pasodi
   Aged about 46 years
   R/at. Shirashyad Village
   Indi Taluk
   Bijapur District 586 114

3. **Smt. Renukabai B Singagi**
   W/o. Sri Basavaraj B Sindagi
   R/at Shirashyad Village
   Indi Taluk
   Bijapur District 586 114 ... **DEFENDANTS**

Counsels on record/appeared for:

Applicant : Sri C. Vinay Swamy

Defendants : *Ex parte*

FINAL ORDER

The present OA has been filed by the Applicant Bank under Section 19 of the Recovery of Debts And Bankruptcy Act, 1993, seeking recovery of money of **Rs.45,63,487/- (Rupees forty-five lakhs sixty-three thousand four hundred and eighty-seven only)** together with costs, interest, etc.

2. The case of the Applicant Bank is that, the Defendants have approached the Applicant Bank for Kisan Credit Card Loan for the purpose of growing and maintaining crop and KCCS Term Loan for the purpose of construction of a farm house. Accordingly, the Applicant Bank has considered the request of the Defendants and sanctioned the Kisan Credit Card Loan of Rs.4,00,000/- under the loan Account No.2391895003637 on 10.05.2010 and KCCS Term Loan of Rs.5,00,000/- under the loan Account No.23918593628 on 06.05.2010 with interest, in terms of the loan agreements. In order to secure the loans, the Defendants have executed documents viz., Sanction Memorandums, Agreements and Deed of Hypothecation, Registered Simple Mortgage Deeds, Particular of Hypothecation, Letters Revival, etc.,

3. Further, the Defendants have agreed to repay the above loans with variable rate of interests, 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.

4. The Defendants after utilising the said loans have failed and neglected to make the repayment of the loans due as agreed and Defendants have not serviced the interest thereon as per the terms and condition agreed by the Defendants. Even after repeated requests and demands from the Applicant Bank, the Defendants went on assuring the Applicant Bank, but on one pretext or the other, failed to repay the debt due to Bank in terms of loans documents and agreements. Hence the recovery process is initiated to recover the dues.

5. In the light of these factors, it is contended by the Applicant Bank that Defendants are jointly or severally liable to pay a total sum of **Rs.45,63,487/- (Rupees forty-five lakhs sixty-three thousand four hundred and eighty-seven only)**.

6. After filing this OA, summons were sent and served to the Defendants through RPAD. When Defendants were called out, Defendants remained absent and placed ex parte.

7. To prove the case of the Applicant Bank, its Chief Manager, Sri Narasimha Sadhum, has filed his affidavit by way of evidence and the same was considered as evidence of AW.1 and marked at Ex.A1 and list of documents came to be marked at Ex.A2 and 16 documents came to be marked at Ex.A3 to A18.

8. No evidence on behalf of the Defendants.

9. Arguments of Learned Counsel for the Plaintiff/ Applicant Bank heard and perused the records of the case.

10. Following points arise for my consideration:

1) Whether Plaintiff/Applicant Bank proves its case as contended in the plaint/application?

2) What Order?

11. For the following reasons, I answer the above-referred points in the following manner:

REASONS

12. The Chief 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 A18 which clearly establish the case of the Applicant Bank to allow the present OA. Added to this, the Defendants have remained absent, hence it is to be construed that Defendants have admitted the entire case pleaded by the Applicant Bank in the present OA.

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

ORDER

Present OA stands allowed, with interest and penal interest, costs.

The Defendants are jointly and severally liable to pay to the Applicant in a sum of **Rs.45,63,487/-** with pendente lite and future interest @ 6% p.a. plus penal interest @ 2% p.a. from the date of application till realization.

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

In spite of sale of the schedule- A and B properties, as mentioned in the schedule of the main OA, 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 Defendants in accordance with law.

Applicant Bank shall file latest Memo of Calculation of OA amount together with interest, costs etc., to be paid by Defendants duly taking into account the amount/s, if any, paid by the Defendants 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 Defendants 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 31st day of May, 2024)

(Imtiaz Ali)
Presiding Officer
DRT-I, Bengaluru

ANNEXURES

Witness Examined for the Applicant Bank:

AW-1	:	Sri Narasimha Sadhum The Chief Manager of 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-18	:	16 documents

Witness Examined for the Defendants:

- **Nil** -

List of Documents Exhibited for the Defendants:

- **Nil** -

31.5.24

(Imtiaz Ali)
Presiding Officer
DRT-I, Bengaluru

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