

**IN THE COURT OF SHRI JITENDRA SINGH,
ADDITIONAL DISTRICT JUDGE -06: CENTRAL
DISTRICT,THC, DELHI**

CS No. 782/18

IN THE MATTER OF:-

M/s ICICI Bank Ltd.
Having its registered office at:
Landmark, Race Course Circle,
Vadodara, Gujarat-390007.

Having its Branch Office at:
2nd Floor, Videocon Tower,
Block E-1, Jhandewalan Extension,
New Delhi-110055.

.....PLAINTIFF

VERSUS

1. Trend Setters Book Ltd.
Through its Director
Mr. Pradeep Kumar Bubna,
(Borrower)
Having its Office At:
H.No. 56, 1st & 3rd Floor
Rani Jhansi Road, Delhi-55.
2. Shri Pradeep Kumar Bubna,
S/o Sh. Nathmal Bubna,
(Co-Borrower),
R/o H. No. 52/12, Block 52, Ramjas Road,
Karol Bagh, Delhi-110005.

.....DEFENDANTS

Other Details :

Date of Institution	: 28.02.2018
Date of Reserving Judgment	: 20.05.2020
Date of Judgment	: 20.05.2020

SUIT FOR RECOVERY OF RS. 5,96,970/-

JUDGMENT

1. This is the suit for recovery of Rs.5,96,970/- filed by plaintiff bank through its authorized representative Shri Mohit Grover.

Facts as averred in the Plaint:

2. Brief facts of the case of plaintiff are that in the month of November, 2015, the defendants had approached and requested the plaintiff bank for grant of loan of Rs.10,00,000/- for purchase of vehicle namely "SCORPIO/S6 PLUS" bearing registration no. MP-04CQ-1741. Upon execution of loan documents, the plaintiff bank sanctioned a loan of Rs. 10 lac and disbursed an amount of Rs.9,97,500/- on 27.11.2015 to the dealer "WIN WIN AUTOMOBILES PVT. LTD." after deducting an amount of Rs.2,500/- towards processing fees etc. vide loan account no. LADEL00033815978. The defendants agreed to repay the said loan in 48 equated monthly installments of Rs.25,483/- each. The defendants have paid an amount of Rs.6,11,592/- (i.e. 24 EMIs), but defaulted in repayment of Rs.50,955/- towards 2 EMIs

and Rs.9,966/- towards late payment and cheque bouncing charges besides future installments for Rs.5,54,258/- as on 05.02.2018. Thereafter, the defendants failed to repay the balance loan amount. The plaintiff sent a legal demand notice dated 16.11.2017, but the defendants failed to repay the outstanding amount.

The plaintiff has prayed for a decree of recovery of Rs.5,96,970/- as on 05.02.2018 alongwith interest @10.25% per annum at monthly rest till its realization.

Proceedings before the beginning of trial:

3. Despite service of summons on the defendant, since he did not appear in the court on 20.12.2018, he was proceeded against ex-parte.

Evidence:

4. To prove its case, the plaintiff examined Shri Mohit Grover, Authorized Representative of the plaintiff bank as PW1.

5. I have heard the final arguments through electronic mode and carefully gone through the material as placed on record.

6. PW-1 Shri Mohit Grover, Authorized Representative of the plaintiff bank filed his affidavit of evidence Ex.PW1/A wherein he reiterated the averments made in the plaint and proved the following documents:-

- i. Copy of Power of Attorney is Ex.PW1/1 (OSR);
- ii. Credit Facility Application Form is Ex.PW1/2;
- iii. Unattested Deed of Hypothecation is Ex.PW1/3;
- iv. Irrevocable Power of Attorney is Ex.PW1/4;
- v. Legal notice dated 16.11.2017 is Ex.PW1/5;
- vi. Copy of postal receipt is Mark A;
- vii. Statement of account dated 05.02.2018 is Ex.PW1/7;
- viii. Certificate under Section 2A of the Bankers Book of Evidence, 1891 is Ex.PW1/8 and
- ix. Certificate under Section 65B of Indian Evidence Act is Ex.PW1/9.

Appreciation of evidence:

7(a) The plaintiff bank proved that upon request of

defendants for grant of loan of Rs.10,00,000/- for purchase of vehicle namely "SCORPIO/S6 PLUS" bearing registration no. MP-04CQ-1741, the plaintiff bank sanctioned a loan of Rs. 10 lac upon execution of loan documents by the defendants and disbursed an amount of Rs.9,97,500/- on 27.11.2015 to the dealer "WIN WIN AUTOMOBILES PVT. LTD." after deducting an amount of Rs.2,500/- towards processing fees etc. vide loan account no. LADEL00033815978. As per Credit Facility Application Form Ex.PW1/2, the defendants agreed to repay the said loan in 48 equated monthly installments of Rs.25,483/- each.

7(b) It is not disputed that the defendants have paid an amount of Rs.6,11,592/- (i.e. 24 EMIs). However, the defendants defaulted in repayment of Rs.50,955/- towards 2 EMIs and Rs.9,966/- towards late payment and cheque bouncing charges besides future installments for Rs.5,54,258/- as on 05.02.2018. The plaintiff sent a legal demand notice dated 16.11.2017 (Ex.PW1/5), but the defendants failed to repay the outstanding amount.

7(c) The plaintiff has also furnished Certificate under Section 65B of Indian Evidence Act (Ex.PW1/9) in support of statement of account (Ex.PW1/7) and also furnished Certificate

under Section 2A of Bankers Books of Evidence Act (Ex.PW1/8), as required by law.

8. There is nothing on record to disbelieve the genuineness of documents Ex.PW1/1 to Ex.PW1/9 proved by PW1 Shri Mohit Grover. His testimony remained unrebutted and uncontroverted. The plaintiff bank has imposed various interest, which are exorbitant and are in the form of penalty and does not seem to be justified. Therefore, the plaintiff is entitled to the principal outstanding amount alongwith interest for the month which amounts to Rs.5,48,534/- as reflected in Ex.PW1/7.

Interest:

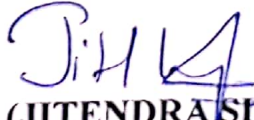
9. The plaintiff is claiming pre lite, pendente lite and post lite interest. It will be appropriate to award prelite interest at the rate of 9% from 16.11.2017 to 27.02.2018. In these circumstances, it will be reasonable to award pendente-lite interest at the rate of 6% per annum from filing of the present suit till the date of decree. As the recovery is based on commercial transaction, post lite (future interest) is awarded at the rate of 12% per annum.

Relief:

10. In view of the facts and circumstances of the case coupled with evidence adduced on record by the plaintiff, **the suit is decreed and plaintiff is held entitled to recover amount of Rs.5,48,534/- alongwith prelite interest at the rate of 9% from 16.11.2017 to 27.02.2018 and pendente lite interest at the rate of 6% per annum and future interest (post lite) at the rate of 12% from the date of decree till realization of the decretal amount against defendants no. 1 and 2. Plaintiff shall be also entitled to costs of the suit. Decree sheet be prepared accordingly.**

11. File be consigned to Record Room as per rules after compliance of necessary legal formalities.

**Announced in open Court
Dated: 20.05.2020**


(JITENDRA SINGH)
Addl. District Judge-06 (Central),
Tis Hazari Courts, Delhi

CS No. 782/18

ICICI Bank Ltd. Vs. Trend Setters Books Ltd.

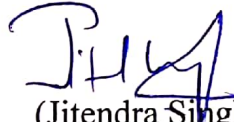
20.05.2020

File taken up today in pursuance of order bearing No. 9784-9885/DJ Central/ Lockdown COVID-19/AD&SJ Duty & Arrangements/2020 dated 16.05.2020 of Ld. District & Sessions Judge (HQs), Delhi.

Present: Ms. Barkha Sharma, Ld. counsel for plaintiff (presence secured through electronic mode).
None for defendant who is already ex-parte vide order dated 20.12.2018.

Final arguments heard through electronic mode.

Put up for judgment at 4:00 PM.


(Jitendra Singh)
ADJ-06, Central District
THC, Delhi/20.05.2020

At 4:00 PM

Present: None.

Vide separate judgment announced in the open court today, the suit is decreed and plaintiff is held entitled to recover amount of Rs.5,48,534/- alongwith prelite interest at the rate of 9% from 16.11.2017 to 27.02.2018 and pendente lite interest at the rate of 6% per annum and future interest (post lite) at the rate of 12% from the date of decree till realization of the decretal amount against defendants no.1 and 2. Plaintiff shall be also entitled to costs of the suit. Decree sheet be prepared accordingly.

Date already fixed, i.e. 07.09.2020 stands cancelled.

File be consigned to Record Room as per rules after compliance of necessary legal formalities.


(Jitendra Singh)
ADJ-06, Central District
THC, Delhi/20.05.2020