

**IN THE COURT OF SH. JITENDRA SINGH, ADDITIONAL
DISTRICT JUDGE -06: CENTRAL DISTRICT,
TIS HAZARI COURTS, DELHI**

CS No. 16257/16

IN THE MATTER OF:-

M/s. ICICI Bank Ltd.
Through its authorized representative
Mr. Mohit Grover
Having its registered office at :
Landmark, Race Course Circle,
Vadodra-390007.

Inter alia having its branch office at:
E-Block, Videocon Tower,
Jhandewalan Extn.,
New Delhi.-110055.

.....PLAINTIFF

VERSUS

Tej Bahadur Johri
S/o Shri Mahesh Bahadur Johri
R/o B-1909, Ground Floor,
Near Govt. Girl School, Shashtri Nagar,
Delhi-110052.

Office At:
Prop. of Johri Enterprises
953-956, (Pvt. No. 311),
IIIrd Floor, AJ Chamber,
Naiwalan Bank Street, Karol Bagh,
New Delhi-110005.

.....DEFENDANT

*CS No. 16257/16,
ICICI Bank Ltd. Vs. Tej Bahadur Johri*

Page No. 1/8

Other Details :

Date of Institution : 07.12.2015
Date of Reserving Judgment : 27.05.2020
Date of Judgment : 27.05.2020

SUIT FOR RECOVERY OF RS. 5,53,571/-

JUDGMENT

Facts as averred in the Plaint:

1(a) Succinctly stated, the case of plaintiff is that the plaintiff is the body incorporated under the provision of the Companies Act, 1956 and is having its registered office at Landmark, Race Course Circle, Vadodara and its branch office at E-Block, Videocon Tower, Jhandewalan Extension, New Delhi and defendant is borrower of plaintiff bank.

1(b) It is averred that the defendant had approached the plaintiff bank for grant of loan of Rs. 4,99,000/- for purchase of vehicle namely "I-10 GRAND SPORTZ DSL" and on execution of Preliminary Credit Facility Application Form, Credit Facility Application Form, Deed of Hypothecation and Irrevocable Power of Attorney on 12.11.2014 by the defendant, the plaintiff bank

sanctioned auto loan and disbursed the amount vide loan agreement bearing no. LADEL00030802943 on 29.11.2014. It is further averred that the defendant was to repay the said loan alongwith interest in 60 Equated Monthly Installments of Rs.10,788/- each.

1(c) The plaintiff further averred that the defendant had only paid an amount of Rs.11,333/- towards EMIs of the loan which includes an amount of Rs. 6,317/- as principle and Rs. 5,016/- as interest part thereof. The defendant has defaulted in repayment of Rs.5,53,571/- towards EMIs. Since the defendant failed to adhere to the financial discipline of the repayment of balance loan amount, the plaintiff sent a legal demand notice dated 20.05.2015, but the defendant failed to repay the outstanding amount.

Proceedings before the beginning of trial:

2. Perusal of the record reveals that despite service of summons by way of publication in newspaper "Rashtriya Sahara" dated 19.03.2019, none on behalf of the defendant appeared and as such, the defendant was proceeded against ex-parte on 29.07.2019.

Evidence:

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

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

5. 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 relied on the following documents:-

- i. Copy of Power of Attorney is **Ex.PW1/1 (OSR)**;
- ii. Original Preliminary Credit Facility Application Form is **Ex.PW1/2**;
- iii. Original Credit Facility Application Form is **Ex.PW1/2**;
- iv. Original Unattested Deed of Hypothecation is **Ex.PW1/4**;
- v. Original Irrevocable Power of Attorney is

Ex.PW1/5;

- vi. Disbursal Memo is **Ex.PW1/6;**
- vii. Legal notice dated 20.05.2015 is **Ex.PW1/7;**
- viii. Copy of postal receipts is **Mark A;**
- ix. Statement of account dated 20.11.2015 is **Ex.PW1/8;**
- x. Certificate under Section 65B of Indian Evidence Act is **Ex.PW1/9;**
- xi. Certificate under Section 2A of Bankers Book of Evidence Act, 1891 is **Ex.PW1/10;**

6. As referred to above, the defendant was proceeded against ex-parte on 29.07.2019. Perusal of the record reveals that the defendant never appeared before the court to contest the case on legal aspect.

Appreciation of evidence:

7(a) The plaintiff bank proved that on execution of Preliminary Credit Facility Application Form (Ex.PW1/2), Credit

Facility Application Form (Ex.PW1/3), Deed of Hypothecation (Ex.PW1/4) and Irrevocable Power of Attorney (Ex.PW1/5) by the defendant, the plaintiff bank sanctioned loan of Rs.4,99,000/- for purchase of vehicle namely "I-10 GRAND SPORTZ DSL" vide loan agreement bearing no. LADEL00030802943.

7(b) As per Credit Facility Application Form (Ex.PW1/2), the defendant was to repay the said loan alongwith interest in 60 Equated Monthly Installments of Rs.10,788/- each. However, the defendant had only paid an amount of Rs.11,333/- towards EMIs of the loan which includes an amount of Rs. 6,317/- as principle and Rs. 5,016/- as interest part thereof. Since the defendant failed to adhere to the financial discipline of the repayment of balance loan amount, the plaintiff sent a legal demand notice dated 20.05.2015 (Ex.PW1/7), but the defendant 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.PW1/8) and also furnished Certificate under Section 2A of Bankers Books of Evidence Act (Ex.PW1/10),

as required by law.

8. There is nothing on record to disbelieve the genuineness of documents Ex.PW1/1 to Ex.PW1/10 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.4,96,376/- as reflected in Ex.PW1/8.

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 20.05.2015 to 16.12.2015. 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.4,96,376/- alongwith prelite interest at the rate of 9% from 20.05.2015 to 16.12.2015 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. 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: 27.05.2020**


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

CS No. 16257/16
ICICI Bank Ltd. Vs. Tej Bahadur Johri

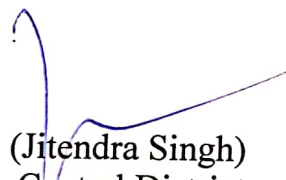
27.05.2020

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: Shri Deepak Kaushik, Ld. counsel for plaintiff (presence secured through electronic mode).
None for defendant who is already ex-parte vide order dated 29.07.2019.

Final arguments heard through electronic mode.

Put up for judgment at 4:00 PM.


(Jitendra Singh)
ADJ-06, Central District
THC, Delhi/27.05.2020

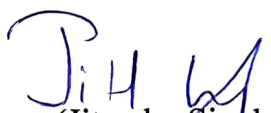
At 4:00 PM

Present: None.

Vide separate judgment announced today, **the suit is decreed and plaintiff is held entitled to recover amount of Rs.4,96,376/- alongwith prelite interest at the rate of 9% from 20.05.2015 to 16.12.2015 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. Plaintiff shall be also entitled to costs of the suit. Decree sheet be prepared accordingly.**

Date already fixed, i.e. 07.07.2020 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/27.05.2020