(2021) 09 DRT CK 0003

Debts Recovery Tribunal-I Ahmedabad

Case No: Original Application No. 572 Of 2014

State Bank Of India — APPELLANT

Vs

A. Arvind R Asokan Bharti — RESPONDENT

Date of Decision: Sept. 30, 2021

Acts Referred:

- Recovery of Debts Due to Banks and Financial Institution Act, 1993 - Section 19, 19(20)Code Of Civil Procedure, 1976 - Section 34
- Debts Recovery Tribunal (Procedure) Rules, 1993 - Rule 16

Hon'ble Judges: Laxman Madnani, J

Bench: Single Bench

Final Decision: Allowed

Judgement

1. The present Original Application has been filed by the Applicant Bank under Section 19 of The Recovery of Debts Due to Banks and Financial

Institutions Act, 1993 now amended as The Recovery of Debts and Bankruptcy Act, 1993, against the defendants for recovery of Rs.16,47,794.00/-

(Rupees Sixteen Lakhs Forty Seven Thousand Seven Hundred Ninety Four Only) together with further interest @ 13.25% p.a. with monthly rests

from filing of this Original Application till realization of the outstanding amount.

2. The brief facts of the case as stated in the application of Applicant Bank is that defendant (student) approached the Applicant bank in the year

2009 requesting education loan (Term Loan). The applicant bank sanctioned education loan of Rs.15,00,000 /- on 22.07.200. The Defendant signed the

said education loan documents and agreed to repay the loan in 84 EMI each (7 years) commencing from one year after completion of the course or six months from getting the job, whichever is earlier. The Defendant even agreed to reproduce the certificate from the head of the educational

institution testifying the results achieved by him at the end of the year. He even agreed that if he fails to produce any such certificate, the bank may

stop giving any further financial assistance to the Defendant.

3. The bank further submits that the defendant availed the Credit facility but he failed to repay the dues of the Bank as per agreed terms, he failed to

adhere to the financial discipline of the applicant bank and the account of defendant became irregular and sticky. The Defendant even failed to

produce any such certificate from the educational institution. The applicant bank requested the defendant from time to time to regularize the said

account but defendant has failed and neglected to regularize the same. Ultimately, the account of the defendant has been classified as N.P.A on

28.02.2013.

4. All these acts and conduct on the part of the defendant was contrary to the terms and conditions of the documents signed and executed by him.

Accordingly the Applicant Bank has moved this Original Application to recover public money.

5. Soon after the registration of the case the defendant was summoned through registered post with A/D. As per record, notice sent to the defendant

was not duly served. Thereafter, the Defendant was served through paper publication in Business Standard News on 11.06.2016. Applicant bank had

also filed purshish at Exh. A/7 enclosing therewith copy of Postal Department's statement showing registration of article, track report & paper

publication respectively. None appeared on behalf of defendant despite service of summons. Thus, the case was proceeded exparte against the

defendant due to his non appearance vide order dated 21.11.2017.

I have heard the learned counsel for the applicant and have also gone through the case file properly. I have also gone through law applicable to facts

and circumstances of the present case.

6. From perusal of the records, it is evident that defendant was provided with fair opportunity to contest the claim of the bank. As the defendant opted

not to contest the case, so only point of consideration before this Tribunal is whether the applicant Bank is legally entitled to the amount as claimed in

Original Application on the basis of documents and pleadings submitted by it before the Tribunal.

7. In support of Original Application, Applicant has filed affidavit in support of Suit Claim at Exh.A/8, sworn by Mr. Suresh D. Kothi, Chief Manager

of the Applicant Bank.

8. The Learned counsel for the Applicant Bank has submitted that the Bank has duly proved all the documents on file as required under ""The

Recovery of Debts and Bankruptcy Act, 1993"". He has further submitted that the defendant is willful defaulter, as he availed the aforesaid credit

facility to his benefits but failed to maintain the financial discipline of the bank. In view of the said facts, the Original Application may be allowed for

the reliefs claimed.

9. I have gone through the loan documents; averments made in the Original Application and also considered the submissions made by learned counsel

for the Applicant Bank. The evidence produced by the Bank remains un-rebutted. There is no reason to disbelieve the same. The loan was sanctioned

on 22.07.2009 and the last payment was received by the applicant bank on 26.07.2014. Present O.A. has been filed by the applicant bank on

24.12.2014 and hence it is well within limitation period prescribed.

10. In view of the aforesaid discussion, I deem it just and proper to allow the claim of the applicant Bank for an amount of Rs. 16,47,794.00/- (Rupees

Sixteen Lakhs Forty Seven Thousand Seven Hundred Ninety Four Only).

11. As per the provision of Section 19(20) of the Recovery of Debts Due to Banks and Financial Institution Act, 1993 which is analogous to Section

34 of Civil Procedure of Code 1908, on filing of the suit/ claim, the contract between the parties comes to an end and the Court/Tribunal has a

discretion to award the same depending upon the circumstances of each case. Same principle has been laid down by the Hon'ble Apex Court in the

case of Central Bank of India Vs. Ravindra & Others. Taking stock of all the circumstances and keeping in view the facts of the case, I am of the

opinion that justice will be served if the interest at the rate of 11% is awarded.

12. In view of the above, the Original Application is allowed.

ORDER

1) I hereby allow this O.A. of the Applicant Bank and direct the defendants to pay jointly and severally to the applicant bank within 60 days from

today, a sum of 16,47,794.00/- (Rupees Sixteen Lakhs Forty Seven Thousand Seven Hundred Ninety Four Only) together with further interest @ 11%

per annum simple and cost & expenses from the date of filing of this O.A. till the date of realisation.

2) If there is any shortfall, the same shall be recovered from the sale of personal movable and immovable properties of the defendant.

4) Recovery Certificate be issued forthwith and be sent to Recovery Officer, Debts Recovery Tribunal-I, Ahmedabad.

5) The registry of this Tribunal is hereby directed to issue the free copy of the order and be sent to the both parties in compliance of Rule 16 of the

Debt Recovery Tribunal Procedure Rule 1993.

6) File be consigned to records.

Pronounced in Open Court on this 30th day of September, 2021 at Ahmedabad.