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HIGH COURT OF CHHATTISGARH, BILASPUR

FA No. 70 of 2016

- Coporation Bank Banking Companies Transfer Of Acquisition And Undertakings Act Of 1980, A Duly Consitituted Corporation Having Its Head Office Mangalore, Karnataka State And Amongst Its Branches One Of Its Branch Is Situated At Branch Opp. Teen Darshan Mandir, G.E. Road, Bhilai, Tahsil And District Durg, Through Its Branch Manager And Chief Officer Shri Raghavendra Rao, Aged- 46 Years, Son Of Shri Subha Rao, R/o M.I.G.-I I, 6/2, Jawahar Nagar Bhilai, Tahsil And District Durg, Chhattisgarh, Wrongly Mentioned As District Raipur, Chhattisgarh ....Plaintiff, Chhattisgarh

---- Appellant

Versus

- Smt. Manimala Jha W/o Shri Santosh Kumar Jha, Aged About 29 Years R/o Qr. No. G-6, 1st Floor, Chouhan Town, Junwani, Bhilai, Tahsil And District- Durg, Chhattisgarh, Chhattisgarh
- Santosh Kumar Jha S/o Shri Bilat Jha, Aged About 39 Years R/o Qr. No. G-6, 1st Floor, Chouhan Town, Junwani, Bhilai, Tahsil And District- Durg, Chhattisgarh ....Defendants, District : Durg, Chhattisgarh

---- Respondents

For Appellant	:	Shri P.R.Patankar, Advocate
For Respondent	:	None present though served.

Hon'ble Shri Justice Manindra Mohan Shrivastava
Hon'ble Smt. Justice Rajani Dubey

Order on Board by Manindra Mohan Shrivastava,J.

10/08/2018

This appeal is directed against the impugned judgment and decree dated 26.10.2015 passed by the Additional Judge to the Court of Additional District Judge, District Durg in CSCB No. 0000014/2015 (Civil Suit No. 14 B/2015) by which the plaintiff's claim has been partly decreed in the manner that the plaintiff would be entitled for Rs 1,58,214/- with interest at the rate of 11.5% w.e.f. 24.03.2012 till the realization.

2. Respondent was sanctioned loan of Rs. 4,60,000/- towards purchase of a vehicle by the appellant/Bank. The loan agreement was executed vide Ex.P-4. Later on, the burrower/defendant committed default in repayment of loan as per agreed monthly installment of Rs. 8,000/-, which lead to dispute between the parties. Appellant/Bank gave notice and thereafter, filed suit seeking money decree of Rs. 6,92,309/- along with interest.

3. The defendant remained ex parte. Appellant/Bank lead oral documentary evidence to prove sanction of loan of Rs. 4,60,000/- as also the terms and conditions embodied in agreement Ex.P-4. It was pleaded *inter alia* that the loan was sanctioned in favour of the burrower under which the interest was payable at the rate of 11.5%, compounded annually. On 22nd March 2012, total amount of Rs. 3,74,000/- was outstanding. The liability was acknowledged by the defendant as the outstanding balance amount was not repaid, the vehicle was attached and put to auction dated 30.01.2014 in which the bank received Rs. 2,15,700/- therefore, in respect of the amount of Rs. 1,58,214/- along with interest of 11.5% with effect from 21.4.09, till the filing of the suit i.e. 18.03.2015, the plaintiff was entitled to a decree for total amount of Rs. 6,92,309/-.

4. Learned trial court however partly decreed the suit by granting interest of Rs. 1,58,214/- not from the date of advancement of loan but from 24.3.2012.

5. Learned counsel for the appellant argued that the plaintiff proved from documentary evidence, particularly, terms and conditions of agreement Ex.P-4 and statement of accounts that as on 22.03.2012 the total amount of Rs. 3,74,000/- was outstanding against the defendant/burrower. After realization of Rs. 2,15,700/- by way of auction of the claimed vehicle, the burrower's liability remained towards payment of Rs. 1,58,214/-. this according to him was liable to be paid with interest to be calculated from the date of advancement of loan i.e. 21.04/09 and not from the subsequent date of 23.03.2012.

6. We have heard learned counsel for the appelant and perused the records.

The only point arising for consideration in this appeal is as to the effective date from which the appellant is entitled to interest on the amount of Rs. 1,58,214/-.

7. The agreement and the terms and conditions on which the loan was advanced to the burrower is not in dispute. Under such agreement Ex.P-4 the burrower was liable to be paid interest at the rate of 11.5% to be compounded annually. From the plaintiff's own document Ex.P-9, it is clear that it was also acknowledged by the defendant/burrower that the amount of Rs. 3,74,000/- with interest, inclusive of loan amount/charges debited upto 24.01.09, was outstanding as on 22.03.12. therefore, from this document, burrower's repayment liability, inclusive of the loan amount is for Rs. 3,74,000/-. It is also not in dispute that the bank recovered Rs. 2,15,700/- by way of auction money on 22.09.2014. What remains to be paid by the burrower to the Bank was Rs. 1,58,214/-.

Contention of learned counsel for the appellant that on this amount, they were entitled to interest from 24.01.09, is not correct because in their own letter Ex.P-9, the liability towards repayment is inclusive of not only the principal amount but also the amount of Rs. 3,74,000/- as on 22.03.2012. This includes the interest on the entire balance amount which includes the amount of Rs. 1,58,214/-. Therefore we find that learned trial court has not committed any illegality in granting interest of Rs. 1,58,214/- only from 24.03.12 therefore we do not find any ground. The appeal is accordingly dismissed and impugned judgment and decree is affirmed. Appellate decree be accordingly drawn. Parties to bear their respective costs.

Sd/- Sd/-

(Manindra Mohan Shrivastava) (Rajani Dubey)
Judge Judge

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