

**IN THE COURT OF SENIOR CIVIL JUDGE
AIZAWL DISTRICT, AIZAWL, MIZORAM.**

Money Suit No.140 of 2015.

Federal Bank of India Ltd.

A Company having its Registered Office at
Alwaye, Kerela, and its branch office amongst other places at
B-8, Main Road, Chanmari, Aizawl-796007

By the Manager/Branch Head.

.....Plaintiff

Versus-

Mr.Lahmangaiha Sailo

S/o.Lalsangluia Sailo.

R/o.C-66, Chanmari East, Aizawl-796007.

..... Defendant

**BEFORE
R.Vanlalena
Senior Civil Judge-II
Aizawl.**

By appearance.

For Plaintiff :Mr.W.Sam Joseph, Advocate & Ors.

For Defendant :

Date of Hearing :Dt.04.05.2016.

Date of Judgment :Dt.24.05.2016.

JUDGMENT AND ORDER

The facts of the case leading to the filing of the present money suit No.140 of 2015 as reflected in the plaint may be reflected as follows:

1.The Plaintiff is a company incorporated and registered under Companies Act 1956(Act No.1 of 1956) and a banking company within the meaning of Section 5(c) of the Banking Regulation Act, 1949 carrying the business of banking having its registered office at Alwaye, Kerela and a branch office amongst other places at B-8, Main Road, Chanmari, Aizawl-796007.

2.The Manager cum Branch Head of Aizawl is authorised to institute the suit on behalf of the plaintiff and he has taken necessary steps for the institution of the present suit.

3.The Defendant namely Mr.Lahmangaiha Sailo, for the purpose of setting up a mobile phone repair unit at Shop No.1 Liannawla, H.No.E-26, Ramhlun Road, Chanmari, Aizawl submitted an application for a term loan amounting to Rs.2,50,000/-(Rupees Two Lacs, Fifty Thousand)only to the plaintiff under PMRY scheme and the said application was processed and the Plaintiff sanctioned Rs.2,37,500/-(Rupees two lacs, thirty seven thousand and five hundred)only as the said loan to him.

4. For this purpose, the Defendant executed an agreement for the said loan under PMRY scheme on 15.03.2013 and also had signed Demand Promissory Note in respect of the loan amount of Rs.2,37,500/-(Rupees two lacs, thirty seven thousand and five hundred)only. The Defendant drawn the said loan amount through Account No.17746800000027 he maintained with the Plaintiff Bank. The Defendant's customer ID No.is 23994346.

5. That in terms of the loan agreement, the Defendant was required to repay to the Plaintiff the principal loan amount in accordance with the amortization scheduled contained therein. He is also required to pay interest at a rate of Rs.14.70% per annum with monthly rests or other rate as may be prescribe by the Reserve Bank Of India or the Plaintiff from time to time. The Defendant agreed to repay the entire amount with the interest in 57 equal monthly instalment of Rs.5,814/-.He further agreed to pay the penal/additional interest of Rs.2% per annum in case of default in repayment of any instalment as per the repayment schedule. However, as the Defendant failed to repay the said loan amount as per the repayment scheduled agreed by him, the Plaintiff is compelled to approach this Court before the term was over.

6.The total amount due to the Plaintiff from the Defendant with the interest calculated till 6th August 2015 is Rs.2,16,816/-(Rupees two lakhs, sixteen thousand, eight hundred sixteen)only. The Defendant is liable to pay interest at the rate of 14.80%+2% penal interest per annum with monthly rests over the said sum of Rs. is Rs.2,16,816/-(Rupees two lakhs, sixteen thousand, eight hundred sixteen)only with effect from 6th August, 2015 till the entire amount is repaid in full.

7.The Plaintiff has sent letters and notices to the Defendant from time to time requesting him te pay the monthly instalment as per the agreement. As the monthly instalment were not paid as per the repayment schedule, the entire amount has fallen due and the Defendant is to pay the entire amount with interest immediately. From the time the Defendant withdrew the loan amount till date, he had paid only Rs.68,927/-(Rupees sixty eight thousand, nine hundred twenty seven)only. The Defendant have not taken steps to repay the loan amount and closed the said term loan account No.17746800000027 till today.

8.The value of the subject matter of the suit for the purpose of court fees is Rs. Rs.2,16,816/-(Rupees two lakhs, sixteen thousand, eight hundred sixteen)only and *ad valorem* court fees amounting to Rs.5064/- is paid. As the relief claimed is more than Rs.2 lakh, the Court has pecuniary jurisdiction to entertain the present suit.

9. The agreements were signed by the Defendant and the money was withdrawn by him from the Plaintiff's branch at Aizawl. Hence, this Court has territorial jurisdiction to entertain the present suit.

10. The cause of action for the suit is non-repayment of the loan amount and it arose on 15th day of March, 2013 when the Defendant had actually availed the said sum of Rs.2,37,500/-(Rupees two lacs, thirty seven thousand and five hundred)only and when the Defendant executed the loan documents and it

continues till the entire dues were not paid and the term loan account No. 17746800000027 was closed.

11. The suit is filed within time and is not barred by limitation or any other law for the time being in force.

12. All documents relied upon by the Plaintiff in support of claim were filed along with the list of documents and it shall form part of the plaint.

13. The Plaintiff, therefore, claims the following reliefs:-

(a). Let a decree be passed in favour of the Plaintiff declaring that the Defendant is liable to repay the sum of Rs.2,16,816/- (Rupees two lakhs, sixteen thousand, eight hundred sixteen) only to the Plaintiff and the Defendant be directed to repay the same to the Plaintiff.

(b). The cost of the suit, i.e. pleaders fees, court fees and all other expenses to be incurred for realisation of the loan amount and interest pendent lite and future interest at a rate of Rs.14.8%+2% per annum with monthly rests as agreed in the agreement be decreed in favour of the Plaintiff and against the Defendant with effect from 06.08.2015.

(c). By way of permanent and mandatory injunction the Defendant be restrained from disposing of his properties.

(d). For attachment and sale of moveable and immoveable property.

(e). Let a decree be passed in favour of the Plaintiff for any other and future relief to which the Plaintiff is entitled according to law, equity, justice and good conscience.

14. On the other hand, the Defendant submitted his hand written statement on 11.04.2016 as follows :-

P.M.R.Y loan ka lak hi a vain Rs.2,37,500/- a ni a, he pawisa lak hi a nihna tur ang ngeiin Mobile repair and accessories dawr pawh tun thlengin ka la siam a, mahse online shopping lo lar choh zel tak vang hian a tir angin kan rul tha lutuk thei ta lo a, bakah ka nupui hi a ke ruh a bilh tiah avang leh .ka nu motor-in a sut avangin damdawinah kan lut ve ve a, heng te avang hian i mi hriatthiamna kan dil ani. Loan kan la rulh loh hi kan theih angin lo rulh zel kan tum tih ka lo hriattir bawk e. (The PMRY loan amount of Rs. .2,37,500/- which I had availed from the Plaintiff was purposefully utilised for running Mobile Repair and Accessories shop till date, however due to newly introduction of online shopping I could no more regularly repay the loan as before. Moreover, due to broken ankle of my wife and my mother who got dashed by a motor vehicle, they were hospitalised. I beg your consideration for these reasons. At the same time, I informed you (Court) that I will try my level best to repay the outstanding loan dues).

15. I heard Mr.W.Sam Joseph, Ld Counsel for the Plaintiff assisted by Ms.LR.Thangliani who submitted that the Defendant has made an admission of the facts of the case and the liability to repay the loan dues in his hand written

statement. As per his hand written statement, the Defendant clearly stated that he would be trying his level best to repay the loan dues. As the Defendant had made an admission of the facts of the suit, the Court may proceed to pass a final order on the basis of the admission made by the Defendant, added the Ld Counsel. I have also heard the Defendant in person who stated that due to misfortunes which visited his family in the recent past, he could no more regularly repay the loan dues as before coupled with the newly introduction of online shopping. He assured the Court that he would be trying his best to repay the loan dues for which he would be in need of ample times.

16. After having heard both parties and after careful consideration of submissions made by the parties with careful perusal of material available on record, this Court has come to a conclusion to pass a judgment on the basis of the admission made by virtue of the provisions contained under Order 12, Rule 6 of the Code of Civil Procedure, 1908 which read as follows:-

Judgment on Admission:-(1) Where admission of fact have been made either in the pleading or otherwise, whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for determination of any other question between the parties, make such order or give such judgment as it may think fit , having regard to such admissions;

(2)Whenever a judgment is pronounced under sub-rule (1) a decree shall be drawn up in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced.

17. Reliance may also be taken from the case of the **Divisional Manager, United India Insurance Company Ltd. And Another vs-Samir Chandra Chaudhary** in connection with Appeal(civil) 3663 of 2005 decided on 14.07.2005 reported in the same year 2005(1) Suppl. SCR 613, 2005 (5) SCC 784, 2005 (5) SCALE 470, 2005 (6) JT 289 it was held that:-

"The effect of admission is that it shifts the onus on the person admitting the facts on the principle that what a party himself admits to be true may reasonably be presumed to be so, and until the presumption is rebutted, the fact admitted must be taken to be established. An admission is the best evidence that an opposing party can rely upon and though not conclusive is decisive of matter, unless successfully withdrawn or proved erroneous.

18. By virtue of the above mentioned citation and also by virtue of the provisions contained under Order 12, Rule 6 of the Code of Civil Procedure, 1908, and further basing upon the admission made, this Court, therefore, passed an order as follows:-

ORDER.

(1).The Defendant Mr.Lalmangaiha Sailo is hereby directed to repay the loan dues amounting to Rs. Rs.2,16,816/-(Rupees two lakhs, sixteen thousand, eight hundred sixteen)only to the Plaintiff within a period of six months from the date of this order without further interest.

(2).No order as to cost of the suit and parties shall bear their own cost.

Draw decree accordingly.

With this order, the present suit stand disposed of.

Sd/-R.VANLALENA

Senior Civil Judge-II
Aizawl District, Aizawl.

Memo.No.....Sr.CJ-II/A/2016 : Dated Aizawl, the 24th May, 2016.

Copy to:-

1. The District & Sessions Judge, Aizawl Judicial District, Mizoram, Aizawl.
2. Federal Bank of India Ltd.A Company having its Registered Office atAlwaye, Kerela, and its branch office amongst other places at B-8, Main Road, Chanmari, Aizawl-796007 By the Manager/Branch Head through Ld. Counsel Mr.W.Sam Joseph.
3. Mr.Lahmangaiha Sailo, S/o.Lalsangluia Sailo, R/o.C-66, Chanmari East, Aizawl-796007.
4. Judicial Section.
5. Case Record.
6. Guard File.

PESHKAR