

**DEBTS RECOVERY TRIBUNAL-2, CHANDIGARH,
PRESIDED OVER BY M.M. DHONCHAK**

ORIGINAL APPLICATION NO. 467/2022

DATE OF INSTITUTION: 25.02.2022

DATE OF DECISION: 12th DAY OF JANUARY, 2023

Punjab National Bank, a Nationalised bank under the ownership of Government of India, Ministry of Finance, having its Head Office at Plot No. 4, Sector-10, Dwarka, New Delhi-110075 and its Zonal Office at Sector-17E, Chandigarh and one of its agricultural Branches named Dosarka, Ambala, Haryana, through its Senior Manager, Sh. Jaswinder Singh at Circle Shastra, Panchkula, Haryana

.....Applicant Bank

Versus

- 1. Smt. Mahindro Devi W/o Sh. Surjit Singh R/o House No. 149, Vaillage Holi (150), Tehsil Barada, District-Ambala, Haryana-133201**
- 2. Sh. Randeep Singh S/o Sh. Surjit Singh R/o House No. 149, Vaillage Holi (150), Tehsil Barada, District-Ambala, Haryana-133201**
- 3. Sh. Lakhwinder Singh S/o Sh. Surjit Singh R/o House No. 149, Vaillage Holi (150), Tehsil Barada, District-Ambala, Haryana-133201**

.....Defendants

**Argued by: Sh. S.K. Verma, counsel for the applicant bank
Defendants *ex parte* vide order dated 12.10.2022**

FINAL ORDER

Present Original Application was instituted by the applicant bank under Section 19 (1) of the **Recovery of Debts Due to Banks and Financial Institutions Act, 1993** (hereinafter referred to as 'the Act' for brevity) against the defendants for recovery of **Rs.21,06,414.67/- (Rupees Twenty One lacs Six Thousand Four Hundred Fourteen and Sixty Seven Paise only)**. It has been filed through, Sh. Jaswinder Singh, Senior Manager.

2. The brief facts as per Original Application are that defendants had approached the applicant bank for a grant of **loan of Rs. 19,77,000/-**

under KCC for agricultural purpose vide loan application dated 11.01.2016, **Annexure-A1** (copy).

3. The applicant bank sanctioned the above said loan facility to defendants vide sanction letter dated nil, **Annexure-A3** (copy) as per the terms and conditions which were duly accepted by the defendants.

4. In order to secure the aforementioned credit facility, defendants executed loan and security documents, i.e. KYC documents of defendants, **Annexure-A2 (colly)** (copy), undertaking dated 04.02.2016 regarding sanctioned credit facilities, **Annexure-A7 (colly)** (copy), undertaking dated 04.02.2016 regarding terms and conditions of credit facilities, **Annexure-A7 (colly)** (copy) and hypothecation agreement dated 04.02.2016, **Annexure-A8** (copy).

5. The aforesaid limit was further secured by creation of registered mortgage of two parcel of agricultural land in respect of defendant No. 2 measuring 10 Bighas 11 Biswas situated in the revenue estate of Holi, Hadbast No.150, Tehsil Barara, District Ambala and land measuring 6 Bighas 14 Biswas situated in the revenue estate of Budion, Hadbast No. 151 Tehsil Barara, District Ambala, fully described in para No. 5(vi) of the Original Application.

Documents related to mortgage are as under:

- i. Registered mortgage deeds dated 29.02.2016, **Annexures-A4 (colly)** (copy).
- ii. Letters dated 01.02.2016 to the Tehsildar Barara, for entry/mutation of mortgaged property in the name of defendant No.2, **Annexure-A5 (colly)** (copy).
- iii. Declaration dated 04.02.2016 regarding mortgaged agricultural land, **Annexure-A6** (copy)

6. It is further the case of the applicant bank that the loan facility was duly availed of by the defendants but they failed to maintain the financial discipline of the applicant bank and resultantly, the loan account became irregular and it was declared NPA on 01.03.2021. The defendants executed balance and security confirmation letter dated 02.02.2019, **Annexure-A10** (copy). The applicant bank recalled the entire outstanding amount vide letters dated 07.02.2018 and 15.05.2019, **Annexures-A9 and A11** (copy) and legal notice dated 07.09.2019, **Annexure-A12** (copy), but to no avail.

7. It is further the case of the applicant bank that after adjusting debit and credit entries in the loan account, a sum of **Rs.21,06,414.67/- (Rupees Twenty One lacs Six Thousand Four Hundred Fourteen and Sixty Seven Paisa only)** is recoverable against the defendants as per statement of account duly certified under Banker's Books Evidence Act along with calculation sheet, **Annexure-A13 (colly)** (copy).

Since the defendants did not repay the outstanding amount, therefore, the applicant bank preferred the present Original Application for issuance of Recovery Certificate.

8. Notices of the Original Application were duly served upon the defendants but since none appeared on behalf of the defendants despite service, thus, the defendants were proceeded against *ex parte* vide order dated **12.10.2022**.

In support of contents of the OA, affidavit of evidence of Sh. Jaswinder Singh, Senior Manager of the applicant bank was filed.

9. This Tribunal has heard *ex-parte* arguments advanced by the learned counsel and gone through the record carefully.

10. It was argued by the learned counsel that in view of unrebutted documentary evidence brought on record, the applicant bank had proved its case for recovery of the amount sought against the defendants. From

perusal of **Annexures-A1 to A13**, it is clear that the defendants had approached the applicant bank for availing of the loan facility which was granted to them after they had executed all the relevant documents as stated above in favour of the applicant bank. Unfortunately, the defendants failed to pay back the loan as per terms and conditions of the agreement executed between the parties. From the documentary evidence brought on record, it is proved that applicant bank is entitled to recover a sum of **Rs.21,06,414.67/- (Rupees Twenty One lacs Six Thousand Four Hundred Fourteen and Sixty Seven Paisa only)** from the defendants.

11. In so far as *pendente lite* and future interest is concerned, the applicant bank in relief clause has claimed interest @12.25% per annum plus @2% per annum penal interest. In sanction letter, **Annexure-A3** (copy), the rate of interest has been mentioned @12.25% per annum.

This Tribunal is of the considered opinion that sometimes in appropriate cases the prerogatives of mercy and magnanimity are the brightest jewels in the crown of the Judge. Keeping in view the facts and circumstances of the instant case including the Pandemic Covid-19 affecting businesses, nature of the mortgaged properties, purpose of loan, i.e. agriculture, present conditions of economy based on agriculture, prevalent market rates of interest which have gone drastically downhill in yesteryears and defendant No.1 being a lady while exercising the discretion vested in this Tribunal, this Tribunal deems it just and appropriate to grant uniform simple interest @7% per annum from the date of filing of the OA till realisation of the amount ordered vide this final order. It is ordered accordingly.

12. In the result, the Original Application is allowed with costs declaring that the defendants are liable to pay to the applicant bank a sum **Rs.21,06,414.67/- (Rupees Twenty One lacs Six Thousand Four Hundred Fourteen and Sixty Seven Paisa only)** with current and future simple

interest @**7% per annum, w.e.f. 25.02.2022**, till the date of realisation of the amount. The liability of the defendants shall be joint as well as several. Accordingly, the applicant bank shall be at liberty to recover aforesaid amount from the sale of mortgaged properties of defendants in execution proceedings, if not sold earlier under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 or otherwise. If the dues of the bank still remain unsatisfied, applicant bank shall be at liberty to recover the same by attachment and sale of personal assets/properties of the defendants. The applicant bank is at liberty to enforce the claim through due process of law.

13. Issue Recovery Certificate accordingly.
14. Parties to appear before Recovery Officer concerned on **13.03.2023**.
15. Copy of this order be sent to the applicant bank and the defendants through registered/speed post. This order be also immediately uploaded on the official website of this Tribunal.

Announced in the open Tribunal

**(M.M. Dhonchak)
Presiding Officer
DRT-2, Chandigarh**