

State Bank Of India vs Yumnam Gouramani Singh on 20 July, 1993

Equivalent citations: AIR1994SC1644, [1994]79COMPCAS389(SC), JT1993(4)SC237, 1993(3)SCALE202, [1993]SUPP1SCR309, AIR 1994 SUPREME COURT 1644, 1993 (3) SCC 631, 1994 AIR SCW 1375, (1993) 4 JT 237 (SC), (1994) 2 LS 20, 1993 (4) JT 237, 1993 (2) UJ (SC) 404, 1993 UJ(SC) 2 404, (1993) 22 ALL LR 337, (1993) 2 BANKLJ 1, (1993) 3 RRR 125, (1994) 1 BANKCAS 60, (1994) 79 COMCAS 389, (1995) BANKJ 236, (1993) 2 BANKCLR 505

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Bench: Kuldip Singh, P.B. Sawant

ORDER

Kuldip Singh, J.

1. State Bank of India at Imphal, Manipur, instituted a suit for recovery of a sum of Rs. 44,852.35 from Yumnam Gouramani Singh. The trial court by its judgment dated December 31, 1971 decreed the suit partly and held that the bank was entitled to recover a sum of Rs. 9,962.91 with interest at the rate of 7 1/2 per cent for the period from September 22, 1960 till the recovery of the amount. Being aggrieved by the judgment of the trial court, the bank as well as Yumnam Gouramani Singh filed appeals before the High Court. The High Court disposed of both the appeals by a common judgment dated August 19, 1977. The High Court allowed the appeal of Yumnam Gouramani Singh and dismissed the suit of the bank. The appeal filed by the bank was, as a consequence, dismissed. This appeal by the State Bank of India is against the judgment of the High Court.

2. Ten issues were framed by the trial court. Issue Nos.3, 4 and 7 were as under:

3. Did the defendant borrow from the Manipur State Bank Ltd. Rs. 15,000 on 16.3.1954, Rs. 10,000 on 19.9.1955 and draw and overdraft showing a debit balance of Rs. 9438/3/2 on 21.12.1956?

4. Has the defendant paid Rs. 11,300 as being not covered in the account filed by the Plaintiff?

7. Is the defendant not liable for the debts as they are being payable by the partners of the Engineering Corporation?

3. The trial court dealt with the above quoted issues in the following manner:

Issue Nos. 3, 4 and 7. The learned Counsel for the Plaintiff does not press for these issues, moreover, the defendant in his written statement, admits that he took the said 3 loans from the Manipur State Bank. Further, the defendant has not led evidence to show that a sum of Rs. 11,300 had already been repaid against the aforesaid loans. Again Ext. A/2, A/3 and A/4 show that the defendant, on his personal capacities, took the aforesaid by mortgaging his properties. Further the promissory notes Ext. A/9, A/8 and the letters of continuity, Ext. A/10, A/7 also show that the defendant is personally liable for re-payment of the loan. Therefore, the partners of the Engineering Corporation cannot be made liable for repayment of the said loans. The three issues are therefore decided against the defendant.

4. It is thus obvious that the trial court decided issues 3, 4 and 7 in favour of the appellant - plaintiff and held that the respondent - defendant borrowed the sums of Rs. 15,000, Rs. 10,000 and also availed of the overdraft current account facility with the bank. The trial court decreed the suit in the following terms:

In view of my findings, in the above issue the plaintiff is entitled to a sum of Rs. 56,047.52 (loan amount plus interest till September 1960) less the amount already paid by the deftd. towards the repayment of the loan. As per schedule of the plaint the defendant had already repaid a sum of Rs. 46,084.62. The plaintiff is therefore entitled to recover a sum of Rs. 9,962.91. The plaintiff is also liable to recover interest on the said amount of Rs. 9,962.91 at the rate of 7 per cent per annum for the period from 22.9.60 till the recovery of the amount subject to the maximum of the said amount from the defendant on payment of necessary court fee.

5. The High Court reversed the findings of the trial court primarily on the ground that there was no evidence on the record to corroborate the books of accounts which were produced by the appellant before the trial court. Relying upon Section 34 of the Evidence Act, the High Court held that the entries in the books of account alone are not sufficient evidence to charge the respondent with liability. The High Court further held that since there was no evidence on the record to support the entries in the books of account, the case against the respondent was not proved. We do not agree with the High Court. We are of the view that the High Court fell into patent error in reaching the conclusion that there was no evidence to corroborate the books of accounts. The High Court itself discussed the evidence, other than the books of accounts, as under:

In the instant suit, the material evidence on the point is the evidence of P. Ws. 5, 7 and 8 at the relevant time, was the General Manager of the Manipur State Bank. He proves the application made by the Defendant for a loan of Rs. 15,000 for which he executed a mortgage deed, Ext. A/3. He has also proved Ext. A/8, the pronote and Ext. A/7 the letter of continuity executed by the defendant by way of security for the above amount. Similarly, he proves the application by the defendant for another sum of Rs. 10,000 which, he says, was sanctioned, and for which the Defendant executed

Ext. A/2, the deed of mortgage, and Ext. A/9 the pronote and Ext. A/10, the letter of continuity. He further proves that a loan account was opened in respect of the loan of Rs. 10,000 and he also proves Exts. A/13, A/14 and A/15. Ext. A/13 is the copy of the loan account of the defendant with the State Bank of Manipur. At the top of the account, is recorded: "Limit Rs. 15,000." Ext. A/14 is a copy of the loan register of the Manipur State Bank with respondent. At the top of the account is mentioned: "Limit Rs. 10,000." Ext. A/15 is a copy of the Current Account Ledger of the Manipur State Bank with the Defendant.

P.W.5 is an employee of the State Bank of India at Imphal. At the relevant time, he was an employee of the Manipur State Bank. He proves the Defendant's Application Ext. A/7 for the accommodation of a loan of Rs. 15,000 and also proves the corresponding promissory note, Ext. A/8, and mortgage deed, Ext. A/3. Similarly, he proves another application of the defendant for accommodation of a loan of Rs. 10,000 and also proves the corresponding promissory note, Ext. A/4, and the letter of continuity, Ext. A/10. Similarly he proves another application by the Defendant for the accommodation of loan of Rs. 15,000 together with mortgage deed, Ext. A/4 and the promissory note, Ext. A/11 and the letter of continuity, Ext. A/12, by way of security.

P.W.7 is the Development Officer of the State Bank of India. He deposes that he certified Exts. A/13, A/14 and A/15 to be the true accounts of the Manipur State Bank, in respect of the defendant. Admittedly, Exts. A/13, A/14 and A/15 were not prepared by him or under his supervision.

6. It is thus obvious that apart from the entries of the books of account there was ample evidence on the record to corroborate the said entries. P.Ws. 5, 7 and 8 have in their detailed deposition corroborated the entries in the books of account. Even otherwise, issues Nos. 3, 4 and 7 were not contested by the respondent defendant. In his written statement, he admitted that he took the alleged loans from the Manipur State Bank which merged in the State Bank of India.

7. The learned Counsel for the appellant bank also contended that the trial court was not justified in granting a decree for a sum of Rs. 9,962.91 instead of Rs. 44,852.34 claimed by the bank. We do not agree with the learned Counsel. The trial court on the basis of the entries in the books of accounts and other corroborative evidence reached the conclusions that the appellant was entitled to a decree for a sum of Rs. 9,962.91 with interest at the rate of 7 per cent per annum, from September, 1960 till the recovery of the said amount. We see no ground to interfere with the finding of the trial court.

8. We allow the appeal, set aside the judgment of the High Court and restore the judgment of the trial court dated December 31, 1971. We decree the suit of the plaintiff in terms of the trial court judgment. The appellant shall be entitled to the costs which we quantify as Rs. 5,000.