3296

Jeep credit file

O.O.C.J.

Suit No.71 of 1964.

The Central Bank of India Ltd., ...Plaintiffs.

Vs.

Kamakshaya Narainsingh Raja Bahadur of Ramgarh and another .. .. Defendants.

Saleh Hyderalli on S.A.
(Examined by Mr. J.S.Khambatta)

26.11.1964.

I am an officer in the overdraft Department in the Central Bank of India, Ltd, at Bombay. I am personally aware of the facts of this case. In or About August 1961 at the request of the deft. the plaintiffs agreed to give him cash credit and overdraft facilities up to a limit of Rs.4/- lakhs. On this facility the deft. was to pay in cash at 3.p.c. over the Bank rate with minimum interest of 7% The deft. agreed to repay the amount under the various facilities together with interest as aforesaid and including such cost, charges and expenses as amy be incurred by the plff. in relation thereto. The defts. required the overdraft facility for the purpose of purchasing 33 jeeps from M/s Mahindra and Mahindra. As and by way of collateral security for the said facilities, the deft. executed in favour of the plainfiff the following four document. (1) a demand pro. note dt. 4th Aug.1961 for Rs. 4/ lakhs with interest at the aforesaid rates. (2) a letter dated 4th Aug.1961 by which he stated that the pro.note was given as and by way of a security for repayment of the ultimate balance (3) a letter of hypothication dt.4th Aug.1961. whereby the deft. hypoticated in favour of the plff. all tangible and moveable property belonging to him such as products, stock-in-trade and the goods of the deft. which then or thereafter from time to time during the period of security would be brought in the premises of godown of the deft. at Bombay Patna and elsewhere. and including the 33 jeeps which he was going to purchase.(4) A letter dated 4th Agust. 1961 whereby the deft. declared that the 33 jeeps would be held by him as the plff.'s exclusive property and the same would not be sold or encumbered without obtaining the plaintiff's previous consent inwriting. By this letter the deft. undertook to increase the liability by monthly instalments of Rs.20,000/- commencing from August 1961 and such instalments were payable in addition to the interest. The four documents put in and marked Ex.A collectively.

Ex.A Colly.

On or about 10 th of August 1961, the Deft. deposited in this account a sum of Rs. 1 lakh. By his letter dated 13th Aug.1961 the deft. requested the plff. to debit to his overdraft account the sum ofRs. 4,99,997/- being the price of 33 jeeps and to pay the said amount to M/s Mahindra & Mahindra

Limited for credit to the account of M/s Narbheram & Co. Pvt.Ltd.withthem. along withthis letter, thedeft. forwarded to theplaintiff an invoice of M/s Narbheram &Co. Pvt.Limited for Rs. 4,99,997/- I produce the letter with an invoice of M/s Narbheram & Co. Pvt. Limited . The letter together with the

Ex.B. colly. invoice put in and marked Ex.B. collectively. As instructed by this letter, we paid to M/s Mahindra and Mahindra Ltd. the sum of Rs. 4,99,997/- I Produce the receipt of M/s Mahindra and Mahindra Ltd. in respect of the said payment

Ex.C The receipt put in and marked Ex.C.

The deft. paid to the plainfiff an aggregate sum of Rs.2,80,000/- by 14 months instalments of Rs. 20,000/- each. for theperiod ending October 1962. The said instalments are credited to overdraft account of the deft.

Thereafter the plaintiffs called upon the deft. repeatedly to pay the balance of the amount due under the overdraft account I produce the copies of the correspondence that has been exchanged between the parties in this behalf. The

Ex.D Colly. correspondence put in and marked Ex.D. collectively.

There is now due and owing by the deft. to the plaintiffs a sum of Rs. 1,57,000-55 Np. with further interest thereon at 7½ p.c. p.a. half yearly rates and costs, charges and expenses. The bank rate increased from 4 p.c. to 4½ p.c. p.a. on 4th of January 1963, and accordingly in the overdraft account the plff. have charged the deft. the interest at the rate of 7½ p.c.p.a. from and after 4th of January 1963. I produce the statement of account of the deft. with the plaintiffs bank duly certified under the Bankers' Book Evidence Act.

P.C. Decree in favour of the plff. forRs. 1,57,060-55 Np. with interest on Rs. 1,19,997/- at the rate of 7½ p.c. from 7th Feb.1964, till the date of the decree and further interest on Rs. 1,19,997/- at the rate of 6.p.c.p.a. from the date of the decree till payment and costs of the suit . Decree in terms of prayer (b) of the plaint.The deft. to pay up the amount due under the decree within 3 months in default of payment, the property to be sold as provided in prayer (d) of the plaint.Liberty to the plffs. to apply for a personal decree.

In view of the decree passed in the suit, there will be no separate order in the Notice of Motion.