

(2006) 06 AP CK 0010

Andhra Pradesh High Court

Case No: C.R.P. No. 2840 of 2005

Chinnam Markendeswara Rao
and Others

APPELLANT

Vs

Chinnam Madhuru and Others

RESPONDENT

Date of Decision: June 7, 2006

Citation: (2007) 2 CivCC 249 : (2007) 5 RCR(Civil) 567

Hon'ble Judges: P.S. Narayana, J

Bench: Single Bench

Advocate: Subba Reddy, for Mr. V.L.N. Gopal Krishna Murthy, for the Appellant; A. Suryanarayana, for the Respondent Nos. 1 to 2, for the Respondent

Final Decision: Allowed

Judgement

P.S. Narayana, J.

Heard Sri Subba Reddy representing Sri V.L.N.G.K. Murthy, the learned Counsel representing the revision petitioner and Sri A. Suryanarayana, the learned Counsel representing respondents 1 and 2 -plaintiffs.

2. There is some controversy between the parties whether, in fact, Court-fee had been paid on the counter-claim. The impugned order reads as hereunder: -

Heard Counter claim pleaded in the written statement cannot be considered as no Court fee paid in that regard and as it is pleaded that the property regarding which counter-claim is made is the self-acquired property of the first defendant purchased in the name of the plaintiffs. So, the plea of counter claim is rejected.

When counter-claim is filed without payment of Court Fee, it is needless to say that inasmuch as the counter claim also may have to be treated as a plaint, the same may have to be rejected. This view had been expressed by the Division Bench of the Madras High Court in Ramani Ammal Vs. Susilammal, and also the learned Judge of Karnataka High Court in Parvathamma v. K.R. Lokanath, AIR 1991 Kar 283. However, there is an assertion on the part of the learned Counsel for petitioners that Court

Fee of Rs. 500/- had been paid but however the same is controverted by the Counsel representing R-1 and R-2 - plaintiffs. The learned Counsel representing the revision petitioners also placed original challan before this Court. In the light of the same, the matter is remitted to the learned Judge to verify whether the Court Fee had been paid on the counter-claim and if the Court Fee had been paid to entertain the counterclaim or in the event of the petitioners moving appropriate applications praying for liberty to pay the requisite Court Fee, to give an opportunity to the petitioners to make good the same by passing appropriate orders. Accordingly, the C.R.P. is hereby allowed to the extent indicated above. No costs.