

(2014) 10 AP CK 0028

Andhra Pradesh High Court

Case No: Civil Revision Petition No. 2454 of 2014

M. Seetha Rama Rao

APPELLANT

Vs

S. Venkata Ramudu

RESPONDENT

Date of Decision: Oct. 15, 2014

Citation: (2015) 1 ALD 345 : (2015) 1 ALT 194 : (2015) 2 BC 570

Hon'ble Judges: C.V. Nagarjuna Reddy, J

Bench: Single Bench

Advocate: K. Sita Ram, Advocate for the Appellant; N. Aswartha Narayana, Advocate for the Respondent

Judgement

@JUDGMENTTAG-ORDER

C.V. Nagarjuna Reddy, J.

This Civil Revision Petition arises out of Judgment, dated 10-03-2014, in OS. No. 791 of 2001, on the file of the Court of the learned Principal Senior Civil Judge's Court, Ranga Reddy District.

2. The petitioner filed the above-mentioned suit for recovery of a sum of Rs. 3,43,000/- from respondent Nos. 1 to 4 on the foot of a promissory note marked as Ex. A. 1. In the plaint, the petitioner specifically averred that respondent Nos. 1 to 4 borrowed a sum of Rs. 2 lakhs from respondent No. 5 for the real estate business on 16-09-1998 and executed a promissory note in his favour by agreeing to repay the same with interest @ 24% p.a. He has further pleaded that respondent Nos. 1 to 4 failed to repay the amount to respondent No. 5 despite notice issued by him; that on 03.06.2001, respondent No. 5 has transferred the promissory note in favour of the petitioner for a valid consideration of Rs. 2 lakhs; and that respondent No. 5 has received the said consideration and made an endorsement in favour of the petitioner at Vanasthalipuram, Hyderabad. In Para 8 of the plaint, the petitioner specifically pleaded that the promissory note was transferred in his favour on 03-06-2001 at Vanasthalipuram, Hyderabad; that the petitioner and respondent No.

5 reside at Vanasthalipuram and Malkajgiri respectively and that therefore, the Court at Ranga Reddy District has jurisdiction to try the case.

3. In the written statement filed by respondent No. 1, except denying the plea of the petitioner that respondent Nos. 1 to 4 have borrowed the amount, no plea has been raised on the territorial jurisdiction of the lower Court.

4. Based on the respective pleadings, the lower Court has framed only two issues viz., (1) Whether the plaintiff is entitled for recovery of the suit amount? and (2) To what relief?

5. On behalf of the petitioner, PW. 1 was examined and Ex.s A. 1 to A8 were marked. On behalf of the respondents, DW. 1 was examined and Ex. B. 1 was marked.

6. The lower Court, in its judgment, after discussing the case on merits, rendered certain findings and returned the plaint for presentation before proper Court on the ground that it has no jurisdiction to try the suit.

7. Heard Mr. K. Sita Ram, learned Counsel for the petitioner, and Mr. N. Aswartha Narayana, learned Counsel for respondent Nos. 1 to 4.

8. On a careful reading of the impugned judgment of the lower Court, this Court has no hesitation to hold that it has made a fundamentally wrong approach on more than one aspect. In the first place, respondent Nos. 1 to 4 have not raised any objection regarding the territorial jurisdiction in their Written statement. No issue has been framed by the lower Court on the said aspect. The lower Court has not observed that, atleast at the hearing of the case, Counsel for respondent Nos. 1 to 4 has raised any objection regarding the territorial jurisdiction. Except making a bald observation that it has no jurisdiction, the lower Court itself has not given any reasons for coming to such conclusion. On the undisputed facts of the case, this Court is unable to comprehend the mindset of the lower Court in coming to the conclusion that it has no jurisdiction as it is the specific case of the petitioner that under Ex. A2-endorsement, the promissory note was transferred by respondent No. 5 in his favour at Vanasthalipuram, Hyderabad, which admittedly falls within the jurisdiction of the lower Court. It is, therefore, wholly unfathomable that the lower Court jumps to the conclusion that it has no jurisdiction. Further more, if the lower Court has come to the conclusion that it has no jurisdiction, it is incomprehensible that it discusses the evidence, analyses the same, renders a finding on merits and then returns the plaint. The approach of the lower Court is wholly unsound and highly confused.

9. For the above-mentioned reasons, Judgment, dated 10-03-2014, in OS. No. 791 of 2001, on the file of the Court of the learned Principal Senior Civil Judge's Court, Ranga Reddy District, is set aside. The lower Court is directed to dispose of the suit on merits without being influenced by any of the findings rendered by it in the impugned judgment, by treating the suit as having been properly instituted and that

it has jurisdiction to try and adjudicate the same on merits. It shall do so within two months from the date of receipt of this order.

10. The Civil Revision Petition is allowed accordingly.

11. As a sequel, CRPMP. No. 3437 of 2014, filed by the petitioner for interim relief, is disposed of as infructuous.