



CNR: KAHC010485442024

NC: 2026:KHC:43302-DB
COMAP No. 424 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE T.P.VIVEKANANDA

COMMERCIAL APPEAL NO. 424 OF 2024

BETWEEN:

1. SMT M R PADMA
W/O MR. GURUSIDDAIAH,
OCC. HOUSE MAKER,
AGED ABOUT 40 YEARS,
R/O AMOGHA LAYOUT,
BANK COLONY, CHITRADURGA - 577502

...APPELLANT

(BY SRI. H V MANJUNATHA., ADVOCATE)

AND:

1. SMT VATSALA
W/O LATE PRADEEP,
AGED ABOUT 35 YEARS,
2. SMT. CHANDRAMMA
W/O LATE G.R.UMAPATHY,
AGED ABOUT 60 YEARS,
3. MR. G.R. NAGAPPA
S/O RANGAPPA,
AGED ABOUT 70 YEARS,

Digitally signed
by PAVITHRA B
Location: HIGH
COURT OF
KARNATAKA



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4. SMT. RAMAKKA
W/O G.R. NAGAPPA,
AGED ABOUT 65 YEARS
5. MR. M N ANAND
S/O G.R. NAGAPPA,
AGED ABOUT 46 YEARS
6. SMT. JAYAMMA
W/O M.N.ANAND,
AGED ABOUT 40 YEARS

ALL ARE R/O KARAPUDI NAGAPPA'S HOUSE,
THOTADA MANE, MATIGATTA VILLAGE,
H.D.PURA POST, HOLALKERE TALUK,
CHITRADURGA DISTRICT - 577557

...RESPONDENTS

(BY SMT. K TEJASWINI, ADVOCATE FOR
SRI. SIDDAPPA B M., ADVOCATE)

THIS COMMERCIAL APPEAL IS FILED UNDER SECTION 13(1A) OF THE COMMERCIAL COURTS ACT, 2015 PRAYING TO SET ASIDE THE JUDGMENT AND DECREE DATED 04.01.2024 PASSED IN COM.O.S NO 03/2022 ON THE FILE OF PRINCIPAL DISTRICT AND SESSIONS JUDGE, CHITRADURGA AND TO DECREE THE SUIT OF THE PLAINTIFF BY ALLOWING THIS APPEAL; FOR SUCH OTHER RELIEF(S) ARE DEEMED FIT IN THE ABOVE FACTS AND CIRCUMSTANCES IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL IS COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE T.P.VIVEKANANDA



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ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE T.P.VIVEKANANDA)

The appellant has filed the present commercial appeal challenging the judgment and decree dated 04.01.2024 passed in Com.OS.No.3 of 2022 by the Principal District and Sessions Judge, Chitradurga.

2. The commercial OS No.3 of 2022 was filed by the plaintiff for recovery of sum of Rs.23,36,000/- from the defendant being the loan amount. The Trial Court has dismissed the suit not only on the ground of maintainability, but also on merits.

3. Learned counsel for the appellant has raised a solitary ground that the Trial Court has erred in considering the suit on merits after having held that the commercial suit is not maintainable and therefore, the judgment of the Trial Court requires to be interfered with. A request is made to remand of the matter to the Trial Court for fresh adjudication after re-classifying the suit as an ordinary original suit.



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4. Learned counsel for the respondent has fairly conceded for remanding the matter to the Trial Court.

5. Since the issue raised is in a narrow compass, with the consent of counsel for the appellant and the respondents, the appeal is taken up for disposal.

6. Upon hearing, we noticed that the Trial Court has framed as many as 9 issues, out of which, issue Nos.6 and 7 were in relation to maintainability of the suit and jurisdiction.

The same reads as under:

"6. Whether plaintiff proves that, it is a commercial transaction?"

7. Whether this Court has jurisdiction to try and decide the suit?"

7. Out of the 9 issues framed, the Trial Court has considered issue Nos.6 and 7 at the first instance and answered the said issues in Negative against the plaintiff holding that the suit filed by the plaintiff does not fall within the definition of "commercial dispute" as defined under Section 2(c) of the Commercial Courts Act and consequently held that the said



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Court has no jurisdiction to adjudicate the dispute brought before it. The Trial Court after having held that the suit filed by the plaintiff as a commercial original suit is not maintainable, the proper course, which was open for the Trial Court was to return the plaint for presentation before the proper Court having jurisdiction to adjudicate the present matter by exercising the power under Order VII Rule 10 of CPC, which reads as follows:

*"10. **Return of plaint:-** (1) Subject to the provisions of rule 10A, the plaint shall at any stage of the suit be returned to be presented to the court in which the suit should have been instituted.*

Explanation:- For the removal of doubts it is hereby declared that a court of appeal or revision may direct, after setting aside the decree passed in a suit, the return of the plaint, under this sub-rule.

(2) Procedure on returning plaint - On returning a plaint, the Judges shall endorse thereon the date of its presentation and return, the name of the party presenting it, and a brief statement of the reasons for returning it."



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8. In light of the provisions as stated *supra*, the Trial Court ought to have exercised the power under Order VII Rule 10A of CPC and directed return of the plaint to present it before the proper Court, which has jurisdiction to adjudicate the same. Instead, the Trial Court proceeded to adjudicate the other issues on merits. Therefore, the findings recorded by the Trial Court on issue Nos.1 to 5 and 8 and 9 would be without jurisdiction, since the Trial Court had no jurisdiction to entertain the commercial original suit itself.

9. In the result:-

- i) The Commercial Appeal is ***allowed***.
- ii) The judgment and decree dated 04.01.2024 passed in Com.O.S.No.03 of 2022 by the learned Principal District and Sessions Judge, Chitradurga, are hereby set aside.
- iii) Learned District Judge is directed to re-classify the suit as an Original Suit and assign the



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matter for trial to the appropriate Court, in accordance with law.

- iv) Since the matter is being remanded, the appellant shall be entitled to refund of the admissible Court fee.
- v) Registry is directed to refund the admissible court fee to the appellant, upon proper identification, in accordance with law.
- vi) The concerned Court, to which the matter would be assigned, shall issue notice to the parties, calling upon them to appear before it, and consider the case on merits.

No order as to costs.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(T.P.VIVEKANANDA)
JUDGE**

AG
List No.: 4 Sl No.: 3