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HON'BLE SRI JUSTICE R. KANTHA RAO

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APPEAL SUIT NO.3769 OF 2000

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JUDGMENT:
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Heard learned counsel appearing for the appellant and there is no representation for the respondent.

The suit in O.S.No.34 of 1999 is filed for specific performance of agreement of sale dated 30.01.1997 on the file of the Senior Civil Judge, Narsapur. The said suit was decreed in favour of appellant. Admittedly, the appellant paid an amount of Rs.1,00,000/- out of Rs.1,75,000/-, which is sale consideration and that he has to pay the balance of Rs.75,000/- only.

Having gone through the evidence let in at the trial, the learned trial Court passed the decree granting relief of specific performance in favour of the appellant. However, directed him to deposit the balance of sale consideration of Rs.75,000/- with interest @ 24% p.a.

Learned counsel appearing for appellant, would submit that there is no such condition in the agreement of sale for payment of interest. Further examination of PWs.1 and 2 and Exs.A1 and A3 marked before the trial Court obviously reveal that the appellant was always ready and willing to perform his part of contract and he was demanding the respondent to execute a registered sale deed in terms of the agreement.

No contradictory evidence was let in by the respondent showing that the appellant was not willing to perform his part of

contract and that he has never demanded the respondent to execute the sale deed.

Under these circumstances, the learned trial Court ought not to have directed the appellant to deposit the amount of Rs.75,000/- with interest @ 24% p.a. Imposing the interest, in the opinion of the Court, is not in accordance with the evidence forthcoming before the trial Court, and the decree and judgment on this issue is required to be set aside in the present appeal. Consequently the direction issued by the trial Court to deposit the sale consideration of Rs.75,000/- with interest @ 24% p.a. is modified and the appellant is directed to deposit only the balance of Rs.75,000/- without any interest.

Accordingly, the Appeal Suit is allowed. Miscellaneous petitions, pending if any in this appeal, shall also stand closed.

JUSTICE R. KANTHA RAO

DATE: 23.11.2015
Gvl

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