

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Appeal Suit No.283 of 2008

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Dated 19.03.2015
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Between:

Chodiseti Durga Laxmi (died),
by Lrs. Smt.Kandikonda Dhana Lakshmi & 7 others
...Appellants
and

Yerubandi Vijaya Bhaskara Rama Murthy
...Respondent

**Counsel for the Appellants: Mr.P.Vinayaka
Swamy**

Counsel for the respondent: Mr.K.Chidambaram

The Court made the following:

Judgment:

This Appeal arises out of the judgment and decree, dated 07-12-2002, in OS.No.57 of 2007, on the file of the Court of the learned VI Additional District Judge (Fast Track Court) at Narsapur.

I have heard Mr.P.Vinayaka Swamy, learned Counsel for the appellants, and Mr.K.Chidambaram, learned Counsel for the respondent.

The respondent filed the aforesaid suit for recovery of a sum of Rs.6,52,764/- along with interest initially against appellant No.1 (since she died during pendency of this appeal, she will be hereinafter referred to as 'the deceased appellant No.1'). It is the pleaded case of the respondent that the deceased appellant No.1, during her lifetime, has borrowed a sum of Rs.80,000/- from one Nimmakayala Subhadramma of Palakol on 01-04-1992 for her family expenses and executed a promissory note by undertaking to repay the said amount together with interest @ 18% p.a., with yearly rests; that she has made certain part payments towards interest, which were duly endorsed on the backside of the suit promissory note; and that the said Nimmakayala Subhadramma has, in turn, borrowed a sum of Rs.1,50,000/- from the respondent/plaintiff and transferred the suit promissory note executed by the deceased appellant No.1 in his favour. As the deceased appellant No.1 has failed to repay the amount to the respondent, he has filed the aforesaid suit.

The deceased appellant No.1 has resisted the suit by filing a written statement.

The trial Court has framed five issues and,

based on the oral and documentary evidence adduced by the parties, it has decreed the suit for a sum of Rs.6,52,764/- with subsequent interest @ 12% p.a., from the date of filing of the suit till the date of decree and @ 6% p.a., till realization of the principal amount of Rs.80,000/-. Feeling aggrieved by the said judgment and decree, the deceased appellant No.1 filed this Appeal.

During the pendency of this appeal, as the sole appellant died, appellant Nos.2 to 7 have come on record as her legal representatives. Today, by a separate order, this Court has directed impleadment of appellant No.8, who is also one of the legal heirs of the deceased appellant No.1.

At the hearing, learned Counsel for the appellants, submitted that, while his clients are not disputing the payment of the principal amount, they have been disputing the aspect of giving yearly rests to interest. He has passed on a calculation sheet as per which, if the simple interest @ 18% p.a., is calculated, the balance amount payable by the appellants would come to Rs.1,79,117/-, as the appellants have already paid a sum of Rs.2,23,803/-.

Per contra, learned Counsel for the

respondent, while not disputing the correctness of the said calculation sheet, however, stated that his client is entitled to the compound interest with yearly rests.

In my opinion, giving yearly rests to interest is not only usurious but also penal in nature. Therefore, in the interests of justice, the appellants shall be relieved from the burden of paying the compound interest. Accordingly, the judgment and decree of the lower Court is modified to the extent that the appellants are liable to pay the principal amount of Rs.80,000/- with simple interest @ 18% p.a., from the date of execution of the suit promissory note. On such application of the simple interest, the appellants are liable to pay the balance sum of Rs.1,79,117/-, besides payment of the costs awarded in the decree. The appellants are granted two months' time for depositing the aforesaid amounts.

The Appeal is, accordingly, allowed in part.

As a sequel to disposal of the appeal, interim order, dated 17-12-2008, is vacated and ASMP.Nos.2674 of 2008 and 198 of 2011 are dismissed as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 19th March, 2015
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