

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

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Civil Miscellaneous Appeal No.481 of 2015

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JUDGMENT:

This appeal under Order XLIII Rule 1 of the Code of Civil Procedure, 1908 by the plaintiff is directed against the decree and judgment dated 19.01.2015 of the learned I Additional District Judge, Ongole passed in AS.No.15 of 2014.

2. I have heard the submissions of the learned counsel for the appellant/plaintiff. I have perused the material record.

3. The facts, which are necessary for consideration, in brief, are as follows:

The plaintiff had brought a suit in OS.No.81 of 2009 for recovery of money with interest and costs. Before the trial Court, the defendant had remained set *ex parte* on 22.10.2009. Thereafter the defendant had filed an interlocutory application in IA.No.1489 of 2009 to set aside the *ex parte* order. However, the said application was dismissed. Therefore, the defendant had preferred a revision in CRP.No.4300 of 2010 before this Court. The said CRP was allowed on 28.09.2012 subject to the condition of the defendant depositing Rs.2,000/- within two months from the date of the order of this Court. The defendant having failed to deposit the said amount had failed to comply with the orders of this Court and had thus ultimately remained *ex parte*. The plaintiff as PW1 and his supporting witnesses as PWs 2 and 3 had filed their affidavits in lieu of examinations-in-chief and exhibits A1 to A6 were marked on the side of the plaintiff. The trial Court by its judgment dated 04.03.2013 had decreed the suit. The operative portion of the judgment of the trial Court reads as under:

'Perused the record. Suit claim has been proved. Suit is decreed with costs against the defendant for Rs.1,91,520/- with future interest at 12% p.a., on principal amount of Rs.1,33,000/-

(Rs.65,000/- and Rs.68,000/-) from the date of suit till the date of decree and thereafter at 6% p.a., till the date of realization.'
(Reproduced verbatim)

4. Feeling aggrieved of the said decree and judgment of the trial Court, the defendant had preferred an appeal in AS.No.15 of 2014. The Court below having referred to a decision of this Court in **Kummari Jangaiah (died) per LR and others v. Somavarapu Savithi and others** found that the judgment of the trial Court, which is not in accordance with law is liable to be set aside and had accordingly set aside the decree and judgment of the trial Court and had remitted the suit to the trial Court for fresh disposal of the suit after recording findings on each issue separately as contemplated under law. Aggrieved of the said decree and judgment of the Court below, the plaintiff had preferred this Civil Miscellaneous Appeal.

5. Having heard the submissions of the learned counsel, this Court finds that in the facts and circumstances of the case, no substantial question of law is involved in this Civil Miscellaneous Appeal (CMA) as the Court below is perfectly justified in setting aside the decree and judgment of the trial Court, which is bereft of reasons. The law is well settled that reasons are the heart beat of the judgment and that Judgments shall contain a concise statement of the case, the points for determination or the issues, as the case may be, and the decision thereon and the reasons for such decision. Further, a Court is required to state its finding or decision on each point or issue, with the reasons therefor.

6. In **Aziz Ahmed Khan vs. I.A. Patel**, the facts show that the defendant having participated in the suit proceeding for some time and having filed his written statement had later remained *ex parte*. An *ex parte* judgment was passed by the Trial Court. In this backdrop this Court held as follows: **"The irregularities committed by the trial court do not stop at that. The judgment**

that it has given does not conform to the provisions of Rule 4 (2) of Order XX, C. P. C. at all. Whereas a judgment shall contain a concise statement of the case, the points for determination, and the decision thereon, we search in vain for any of these essentials in the impugned judgment. It is no judgment at all. The provisions of Rule 4 (2) have a set purpose. The form is designed to ensure that while pronouncing the orders or judgments, they should apply their minds to the facts of the case and the points at issue and give a reasoned

judgment thereon so that not only their own conscience may be satisfied but also the litigants should have satisfaction that all their evidence has been evaluated and their contentions and arguments duly considered. This is of vital importance inasmuch as the whole edifice of confidence of the litigants in Courts is built upon the quality of judgments. The Courts, therefore, have to necessarily take care that their judgments conform to the provisions of law and are products of sound reasoning. In the instant case the judgment of the trial Court which we have extracted above is no judgment at all. The appeal must be allowed on that basis also.” Further, in **Balraj Taneja and Anr. vs. Sunil Madan and Anr.** The supreme Court held as follows: “**Judgment**” as defined in Section 2(9) of the Code of Civil Procedure means the statement given by the Judge of the grounds for a decree or order. What a judgment should contain is indicated in Order 20 Rule 4 (2) which says that a judgment “shall contain a concise statement of the case, the points for determination, the decision thereon, and the reasons for such decision”. It should be a self-contained document from which it should appear as to what were the facts of the case and what was the controversy which was tried to be settled by the Court and in what manner. The process of reasoning by which the Court came to the ultimate conclusion and decreed the suit should be reflected clearly in the judgment. Whether it is a case which is contested by the defendant or a case which proceeds *ex parte* and is ultimately decided as an *ex parte* case or is a case in which the written statement is not filed, and the case is decided under Order 8 Rule 10 the Court has to write a judgment which must be in conformity with the provisions of the Code or at least set out the reasoning by which the controversy is resolved. Even if the definition were not contained in section 2 (9) or the contents thereof were not indicated in Order 20 Rule 1 (2) CPC, the judgment would still mean the process of reasoning by which a Judge decides a case in favour of one party and against the other. In judicial proceedings there cannot be arbitrary orders. A Judge cannot merely say “suit decreed or suit dismissed” the whole process of reasoning has to be set out for deciding the case one way or the other.”

7. The judgment in the instant suit passed by the trial Court and which is rightly set aside by the Court below suffers from all the infirmities which are pointed out in the precedent. In **Satyanarayana and others vs. Wakf Board of A P, Hyderabad** the

judgment of the lower court was challenged as bad for not giving reasons and this Court referred to the following ratio in the decision in the case of **Swaran Lata Ghosh vs H. K. Banerjee And Anr.**: “Recording of reasons in support of a decision of a disputed claim serves more purposes than one. It is intended to ensure that the decision is not the result of whim or fancy, but of a judicial approach to the matter in contest: it is also intended to ensure adjudication of the matter according to law and the procedure established by law. A party to the dispute is ordinarily entitled to know the grounds on which the Court has decided against him, and more so, when the judgment is subject to appeal. The Appellate Court will then have adequate material on which it may determine whether the facts are properly ascertained, the law has been correctly applied and the resultant decision is just. It is unfortunate that the learned Trial Judge has recorded no reasons in support of his conclusion, and the High Court in appeal merely recorded that they thought that the plaintiff had sufficiently proved the case in the plaint.” In the said precedent it was also held as follows: “Trial of a civil dispute in Court is intended to achieve, according to law and the procedure of the Court, a judicial determination between the contesting parties of the matter in controversy. Opportunity to the parties interested in the dispute to present their respective cases on questions of law as well as fact, ascertainment of facts by means of evidence tendered by the parties, and adjudication by a reasoned judgment of the dispute upon a finding on the facts in controversy and application of the law to the facts found, are essential attributes of a judicial trial. In a judicial trial the Judge not only must reach a conclusion which he regards as just, but, unless otherwise permitted, by the practice of the Court or by law, he must record the ultimate mental process leading from the dispute to its solution. A judicial determination of a disputed claim where substantial questions of law or fact arise is satisfactorily reached, only if it be supported by the most cogent reasons that suggest themselves to the Judge : a mere order deciding the matter in dispute not supported by reasons is no judgment at all.” It was finally held as follows: “Therefore, in compliance with the mandatory requirement of Rule-4(2) of Order-20 of the Code, the court will have to give reasons at least for holding how it was satisfied the plaintiff proved his case even when no issues are framed, or even when the matter is being decided exparte. Following the decision of the Full Bench of this Court in Aziz Ahmed’s case

(Supra), I, therefore, have to hold that the judgment of the learned subordinate judge is no judgment at all.”

8 . Without further referring to any decisions on the same aspect, which is well-established and well-settled, it can safely be concluded that the judgment passed in the suit by the trial Court is no judgment at all as the said judgment did not conform to the legal requirements and the precedential guidance referred to in the decisions, supra. As a sequel to the discussion coupled with reasons, this Court finds that the Court below for right reasons has correctly set aside the judgment of the trial Court and that therefore, there is no merit in this appeal and hence, the appeal deserves to be dismissed.

9. Accordingly, the Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs. However, since the suit is of the year 2009, the trial Court is directed to decide the suit as expeditiously as possible and preferably within a period of two (02) months from the date of the receipt of a copy of this judgment.

Miscellaneous petitions, if any, pending in this appeal shall stand closed.

M.SEETHARAMA MURTI, J

28th September, 2015

NOTE: Issue CC by 05.10.2015

(B/o)

Vjl