

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**FA No. 327 of 1999**

- Ramdas Dewangan, S/o Hardeo Lal Dewangan, aged about 57 years, R/o Village Champa, Near Santoshi Mandir, Champa City, Tehsil – Champa, Distt. Bilaspur, M.P. now C.G.

---- Appellant/Defendant**Versus**

- Madhya Pradesh Khadi Sanstha Sangh Avam Kosa Utpadan Kendra, Sakti, Dwara Vyawastapak,

---- Respondent

For Appellant	:	Shri Rajeev Shrivastava with Shri Malay Shrivastava and Shri Gagan Tiwari, Advocates.
For Respondent	:	Shri Nishikant Sinha, Advocate

Judgement On Board By Sanjay Agrawal, J.**05/10/2016**

1. The defendant/appellant has filed this appeal questioning the propriety of the judgment and decree dated 31.03.1999 passed by the Additional District Judge, Sakti, Dist. Bilaspur, in Civil Suit No. 05-B/92 whereby the trial Court while decreeing the plaintiff's claim has directed the defendant/appellant to refund a sum of Rs.20,800/- with interest @ 12% per annum from 25.12.1989 till the delivery of the judgment with a further direction that the plaintiff will be entitled to get the amount of interest only on payment of court fee on it.

2. Brief facts of the case, as pleaded before the trial Court, are that the plaintiff – M.P Khadi Sanstha Sangh Avam Kosa Utpadan (hereinafter referred to as the plaintiff-society) is a registered Society and had supplied one lakh *Kosafals* to the defendant/appellant – Ramdas Dewangan on his request for providing the same to his weavers, so that, cloths could be weaved by them by utilizing the said *Kosafals*. It is pleaded in the plaint that on 12.12.1989, a letter was made by the defendant in

this regard to the plaintiff-society requesting for providing the *Kosafals* to as many as 10 of his weavers, as mentioned in the said request letter while taking all the responsibilities of them. It is put forth in the plaint that the defendant had received 20 bags (one lakh *Kosafals*) from the plaintiff-society on 25.12.1989 and out of which he had returned 12 bags (sixty thousand *Kosafals*) to the plaintiff-society on 30.12.1989 as evidenced by the endorsement made by him in the said request letter, titled as *Ikrarnama* (Ex.P.1), itself. It is the further case of the plaintiff that when it came to know that defendant – Ramdas had no weavers, and therefore, it demanded the return of one lakh *Kosafals* from the defendant on 30.12.1989, however, he had returned only sixty thousand *Kosafals* out of it and the remaining forty thousand *Kosafals* was sold by the defendant. Therefore, the plaintiff had requested the defendant to refund the same, however, despite of repeated demands being made the rest of forty thousand *Kosafals* was not returned, therefore, the plaintiff has been constrained to file the suit in the instant nature for refund of those forty thousand *Kosafals* or an amount of Rs.20,800/- in lieu of it with interest @ 12% per annum amounting to Rs.7,280/- and thus the plaintiff has claimed total sum of Rs.28,080/-.

3. The defendant has contested the aforesaid claim of the plaintiff and pleaded that he has not received the *Kosafals* from the plaintiff and, in fact, he had just taken the responsibilities of his weavers. It was further pleaded that the suit as framed without implementing the weavers is not maintainable and is barred by time as well. It was denied further by him that he did not return those forty thousand *Kosafals* to the plaintiff or has violated the terms and conditions of the alleged *Ikrarnama* (Ex.P.1).

4. The trial Court while considering the documentary as well as oral statements led by the parties, has come to the conclusion that defendant had obtained one lakh *Kosafals* from the plaintiff for providing the same to his weavers and has failed to comply with the terms of the alleged agreement (Ex.P.1). It held further by

relying upon the letters (Ex.P.6, Ex.P.7 and Ex.P.8) written by the defendant himself that he has tried to return rest of forty thousand *Kosafals* to the plaintiff and, in consequence, decreed the plaintiff's claim.

5. Being aggrieved by the aforesaid judgment and decree of the trial Court, the defendant - Ramdas Dewangan has preferred this appeal on the ground that he has not taken any of the *Kosafals* from the plaintiff and has, in fact, just taken the responsibilities of his weavers, whose names were mentioned in the alleged agreement (Ex.P.1), and therefore, not liable to refund any amount in lieu of forty thousand *Kosafals*, as claimed by the plaintiff.

6. I have heard the learned counsel for the parties and perused the record of the Court below.

7. A document (Ex.P.1), purported to have been executed by the defendant, was in fact a request letter, titled as "*Ikarnama*", made by him on 25.12.1989 to the plaintiff-society, by which a request was made for providing *Kosafals* for as many as 10 of his weavers for their business, so that, cloths could be weaved by them and has thus taken responsibilities in this regard. It is true that by way of said request letter nothing was provided by the plaintiff-society to the defendant at that particular time, but, if the endorsement, as made by the defendant at the back side of the said document, was examined in its true perspective, it would reveal very specifically that the defendant – Ramdas Dewangan had taken one lakh *Kosafals* from the plaintiff-society on 25.12.1989 and has returned only sixty thousand *Kosafals* out of it on 30.12.1989. Besides, the demand letters (Ex.P.2 to Ex.P.5), issued by the plaintiff-society demanding the defendant for getting back the rest of *Kosafals*, coupled with the letters Ex.P.6, Ex.P.7 and Ex.P.8, which were issued by the defendant, would lead to an irresistible conclusion further that the defendant had not only taken one lakh *Kosafals* from the plaintiff-society, but, was also ready and willing to return the same.

8. In view of the aforesaid facts and circumstances, the findings as recorded by the trial Court based on the above mentioned documentary evidence, are just and proper and deserves to be upheld. Therefore, the appeal is devoid of merit and is hereby dismissed.

9. Parties are directed to bear their own costs.

10. A decree be drawn accordingly.

Sd/-
(Sanjay Agrawal)
Judge