

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2016

CORAM :

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU, J.

S.A.No.772 of 2000

Tirupattur Co-operative
Sugar Mills,
rep. by its Special Officer,
Kethandapatti,
Tirupattur.

... Appellant/Defendant

Vs.

C.Govindasamy

... Respondent/Plaintiff

Prayer:- This Memorandum of Second Appeal is filed under Section 100 of Civil Procedure Code against the Judgment and decree dated 30.08.1999 passed in A.S.No.7 of 1999 on the file of the learned Additional District Judge, Tiruvannamalai in modifying the judgment and decree dated 02.11.1998 passed in O.S.No.582 of 1995 on the file of the learned District Munsif, Polur.

For Appellant : Mr.P.Mani

For Respondent : No appearance

J U D G M E N T

This Memorandum of Second Appeal has been directed against the Judgment and decree dated 30.08.1999 passed in A.S.No.7 of 1999 on the file of the learned Additional District Judge, Tiruvannamalai in modifying the judgment and decree dated 02.11.1998 passed in O.S.No.582 of 1995 on the file of the learned District Munsif, Polur.

2. The appellant is the defendant in the suit for damages. The respondent herein is the plaintiff and being the member of the appellant/ Sugar Mills, claimed damages to the tune of Rs.30,000/- for the belated issuing of the cutting order of Sugarcane Crops.

3. According to the plaintiff/respondent, if the appellant/Sugar Mills had issued cutting order in time, he would have gained at least a sum of Rs.60,000/- from and out of the Sugarcane Crops and would have raised another bogum of Sugarcane Crops. Thus, according to the plaintiff/respondent, the delay in issuing the cutting order caused loss to him and therefore, he assessed such loss to the tune of Rs.30,000/- and claimed it by way of damages.

4. The appellant/Sugar Mills contested the suit by questioning its maintainability.

5. The Trial Court, after considering the respective pleadings of the parties and the evidences let in by them, decreed the suit as prayed for.

6. On appeal by the appellant/defendant, the Appellate Court partly allowed the Appeal and modified the decree only to the extent of Rs.13,955.32 with 12% interest, instead of Rs.30,000/- as decreed by the Trial Court.

7. Challenging the same, present Second Appeal has been filed before this Court.

8. On admission, the following is the substantial question of law raised in this case for entertaining this Appeal and for further consideration.

Whether in law the present suit is instituted is barred in view of Section 90(1) (b) of the Tamil Nadu Co-operative Societies Act 1983, under which any dispute touching the business of the society between a member and the society shall be referred to the Registrar for decision?

सत्यमेव जयते

9. Heard Mr.P.Mani, learned counsel appearing for appellant/Sugar Mills.

10. It is not in dispute that the plaintiff/respondent is the member of the defendant/Sugar Mills and therefore, entitled to get the cutting order of the Sugarcane crops, in time. It is needless to say if cutting order is not issued in time, such delay would certainly cause undue hardship and financial loss to the plaintiff as the plaintiff's right to sell the Sugarcane at appropriate time with appropriate price would have been lost by such delay. It is also to be seen that by not cutting the Sugarcane Crops in time, an opportunity of the

plaintiff/respondent to raise another bogum of Sugarcane Crops was also lost.

11. Therefore, the plaintiff/respondent has rightly approached the Court below and sought for damages. The plaintiff claimed a sum of Rs.30,000/- as damages and the same was granted by the Trial Court and the lower Appellate Court modified the amount to the tune of Rs.13,955.32 with 12% interest.

12. Based on the factual circumstances of the case and on appreciation of the entire evidences, the factual findings rendered by both the Courts below would show the appellant is not having a case on merits. I do not find the question of law raised in this Second Appeal would come to the rescue of the appellant/defendant in any manner. Accordingly, the substantial question of law is answered against the appellant.

13. Therefore, the Second Appeal fails and the same is dismissed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Additional District Judge,
Tiruvannamalai.

2.The District Munsif,
Polur.

Copy to

The Section Officer,
VR Section,
High Court, Madras.

+1cc to Mr.P.Mani, Advocate sr.52942

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srg 13/10/2016