

HONOURABLE SRI JUSTICE RAJA ELANGO

SECOND APPEAL No.718 of 2016

JUDGMENT:

1. This appeal is filed against the decree and judgment dated 9.9.2002 passed by the VII Additional District Judge, Kakinada in Appeal Suit No.29 of 1998, confirming the decree and judgment dated 27.3.1996 passed by the Principal Subordinate Judge, Kakinada in O.S.No.247 of 1992.

2. The appellant is the defendant and the respondent is the plaintiff before the trial Court. For the sake of convenience, the status of the parties will hereinafter be referred to as arrayed before the trial Court.

3. Brief facts of the case are as follows:

The plaintiff-Birada Venkateswarlu filed a suit in O.S.No.247 of 1992 before the Principal Subordinate Judge, Kakinada, for recovery of amount of Rs.33,410/-. It is stated in the plaint that the defendant-Gurram Ratnam borrowed an amount of Rs.15,000/- on 15.2.1992 from the plaintiff for the purpose of her family expenses and for discharging sundry debts, agreeing to repay the same with interest at the rate of 24% per annum. She executed a promissory note in favour of the plaintiff. Again she borrowed Rs.15,000/- from the plaintiff on 14.5.1992 for the same purpose, agreeing to repay the same with interest at the rate of 24% per annum. She also executed a promissory note. Subsequently, she failed to repay the same. In spite of repeated demands and issuance of notice, the defendant did not repay the amount. Hence the plaintiff filed the suit.

4. The defendant filed her written statement denying the money transactions stated in the plaint. She stated that the plaintiff and his wife used to conduct unauthorized chit business and the wife of the plaintiff

instigated her to join in the chits and collected Rs.500/- and Rs.250/- on two occasions. On coming to know that the said business is an unauthorized one, the defendant demanded them to return the money subscribed by her and they obtained her signatures on stamped papers under coercion and threat. The plaintiff and his wife cheated many persons of their locality and the victims reported the matter to the police and after investigation, criminal cases were filed against them and the defendant also gave a complaint to the police on 28.8.1992. There is no need for the defendant to borrow any amounts from the plaintiff.

5. During the course of trial, P.Ws.1 to 3 were examined and Exs.A1 to A5 and Ex.C1 were marked on behalf of the plaintiff. D.Ws.1 to 3 were examined and Exs.B1 to B7 were marked on behalf of the defendants.

6. On appreciation of both oral and documentary evidence, the trial Court decreed the suit with costs for an amount of Rs.33,410/- with subsequent interest at the rate of 12% p.a., on Rs.30,000/- from the date of filing of the suit till the date of decree and thereafter, at the rate of 6% p.a., till the date of realization. Aggrieved by the said decree, the defendant filed appeal in A.S.No.29 of 1998 before the VII Additional District Judge, Kakinada. The said appeal was dismissed. Hence the defendant filed this Second Appeal.

7. Heard and perused the material available on record.

8. From the material on record, it is evident that the plaintiff has substantiated his claim by adducing oral and documentary evidence. The evidence of the attester and the scribe also proved the case of the plaintiff. Nothing was adduced by the defendant-appellant to rebut the case of the plaintiff. On appreciation of both oral and documentary evidence, both

the Courts below gave findings in favour of the plaintiff. The findings of both the Courts below are concurrent and are on sound reasoning and in proper perspective. This Court does not find any perversity in those findings. Apart from that, the grounds raised in the second appeal do not constitute any substantial question of law. Therefore, this Court is not inclined to interfere with the judgment under appeal.

9. In the result, the Second Appeal is dismissed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Date: 19th October, 2016
Nn

RAJA ELANGO, J



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Date: 19th October, 2016

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