

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

APPEAL SUIT No.1155 OF 1999

ORDER.

This appeal is preferred by the defendants against the order dated 15-2-1999 in I.A.No.749 of 1997 in O.S.No.29 of 1990 passed by the Senior Civil Judge, Machilipatnam whereunder the learned judge passed final decree.

The order would show that I.A.No.749 of 1997 was filed by the respondents/plaintiffs under Order 34 Rule 5 (3) C.P.C. to pass final decree in terms of preliminary decree passed by the court below in O.S.No.29 of 1990. Suit was filed on a mortgage bond for recovery of Rs.2,40,000/-; the said suit was decreed on 20th November, 1996 a preliminary decree was passed; thereafter, the respondents/defendants did not pay the amount within time and hence, final decree be passed.

The order in I.A.No.749 of 1997 would further show that the respondents therein opposed the petition contending that the preliminary decree passed was not correct and interest was not calculated correctly. The trial court found the contention as not correct. The trial court further observed that against the preliminary decree, the respondents/defendants filed A.S.No.406 of 1998 before this court and in C.M.P.No.9498 of 1998, stay was granted with a direction that the appellant shall deposit half of the decretal amount within eight weeks and in case of non-deposital of amount, the stay shall stand vacated and in case, the amount was deposited, it could be withdrawn without furnishing security. The trial court observed that as per the direction in the said order, the

respondents/defendants shall deposit the amount but not deposited. In those circumstances, the trial court passed final decree on 15th February, 1999. Hence, the present appeal.

Heard the learned counsel for the appellants and the learned counsel for respondent.

During the course of hearing, it is observed that A.S.No.406 of 1998 which was filed against passing of preliminary decree was dismissed on 5th July, 2004. So far as the present appeal is concerned, the main contention of the appellants is that the interest calculated is not correct one and it is also the contention that the suit debt is unconventional one and the interest is excessive one. It must be said these contentions were raised before the trial court also which were negated by the trial court. In the appeal, the appellants could not show any plausible reasons as to how the interest awarded is an excessive and debt is unjust against any statute.

In these circumstances, I find no merits in this appeal and accordingly, this appeal is dismissed confirming the order passed in the final decree. No costs.

As a sequel there to, miscellaneous applications, pending if any, shall stand closed.

U.DURGA PRASAD RAO, J

Dated 20th November, 2017.

Dvs

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