THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

SECOND APPEAL No.703 of 2012

JUDGMENT:

This appeal is filed challenging the judgment and decree dated 02.03.2012 in A.S.No.99 of 2010 on the file of the Court of VII Additional District and Sessions Judge(FTC), Vijayawada, wherein and whereby the judgment and decree dated 16.02.2010 in O.S.No.483 of 2009 on the file of the Court of V Additional Junior Civil Judge, Vijayawada, FAC VI Additional Junior Civil Judge, Vijayawada, dismissing the suit filed for recovery of money, was reversed.

2. The trial Court dismissed the suit on the sold ground that the plaintiff failed to prove the exact place of execution of Ex.A1 promissory note. At the time of arguments, both counsel with one voice submitted that the appellate Court has not given any specific finding with regard to the place of execution of Ex.A1 promissory note. Both counsel further submitted that the judgment and decree of the first appellate Court may be set aside and remit the matter to the first appellate Court to decide the appeal afresh by giving a specific finding with regard to the place of execution of Ex.A1 promissory note.

3. In view of the submissions made by both the counsel, this Court is not inclined to go into the merits of the main case. As rightly pointed out by both the counsel, the appellate Court

ought to have given a specific finding with regard to place of execution of Ex.A1 in view of specific finding of the trial Court.

4. Taking into consideration the facts and circumstances of the case, this Court feels it is a case to remand the matter to the first appellate Court to dispose of the appeal in accordance with law by giving specific finding with regard to place of execution of Ex.A1. The first appellate Court is further directed to dispose of the matter within a period of three (3) months from the date of receipt of copy of this order.

5. Accordingly, second appeal is allowed setting aside the judgment and decree in A.S.No.99 of 2010 and remanded to the Court of VII Additional District and Sessions Judge (Fast Track Court) Vijayawada for fresh disposal. There shall be no order as to costs. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

T.SUNIL CHOWDARY, J

11th December, 2017
Rns