

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Civil Revision Petition Nos.948 and 1876 of 2018

Common Order:

Aggrieved by the dismissal of the independent applications taken out by defendants 1 and 2 in a suit for recovery of money, for framing additional issues, the defendants 1 and 2 have come up with the above revisions.

2. Heard Mr. Mangena Sree Rama Rao, learned counsel for the petitioners. Mr. P.R. Prasad, learned counsel, takes notice for the 1st respondent/plaintiff.

3. The 1st respondent filed a suit for recovery of money on the ground that they were carrying on business in cold storage and that in the course of business transactions of keeping the materials of the defendants in the cold storage, they also lent monies and that the 1st defendant did not repay the monies.

4. The defendants filed written statements, denying their liability.

5. The Court below framed the following issues for consideration:

1) Whether the Signatory of plaintiff is having authority to sign on plaint on behalf of plaintiff?

2) Whether the defendant used to store the stock of him in the cold storage of plaintiff?

3) Whether the defendant maintained khata with plaintiff as pleaded by plaintiff and used to borrow amount from him?

4) Whether the defendant paid an amount of Rs.2,00,000/- to plaintiff on 13-02-2010 by way of cheque drawn on Karur Vysya Bank Limited towards part payment?

5) Whether the defendant paid an amount of Rs.10,00,000/- on 13-9-2010 to plaintiff as part payment of due amount?

6) Whether the suit claim of plaintiff is barred by limitation?

7) Whether plaintiff is entitled to recover the suit amount with interest as prayed for? and

8) To what relief?

6. Thereafter, the defendants 1 and 2 filed separate applications for framing additional issues. The additional issues sought by the defendants 1 and 2 to be framed are:

1) Whether the plaintiff is entitled to carry on the business of money lending?

2) Whether the plaintiff was legally authorized to carry on the business by way of necessary Licences, filing of documents to the authorities concerned as to the matter of present suit?

3) Whether the plaintiff insisted the 1st defendant to procure the dates, spices etc., along with his items procured to acquire profits there from?

4) Whether the cheques in question are valid under Law and from part and parcel of the present suit?

5) Whether the plaintiff's company followed the due procedure as relating to the money lending business and the proceedings in the present suit? and

6) Whether the bank transactions on whom plaintiff relied on can establish the liability of 1st defendant as pleaded by the plaintiff in his averments?

7. The Trial Court dismissed the applications on the ground that the issues already framed are sufficient to decide the lis. Aggrieved by the said orders, the defendants 1 and 2 have come up with the separate revisions.

8. It is true that in an additional written statement, the petitioners have questioned the entitlement of the company to lend money, in violation of the Objects Clause in the Memorandum and Articles of Association of the company. But the transactions pleaded by the plaintiff are in the nature of mixed transactions where the 1st defendant allegedly kept the materials purchased by him in the cold storage, on rental basis and also borrowed money. Therefore, the additional issues sought to be raised by focussing attention on the entitlement of the plaintiff to lend money, cannot independently stand. The Trial Court was right in finding that the issues already framed are sufficient to decide the lis between the parties. Hence, the civil revision petitions are dismissed. The interlocutory applications, if any, pending in these revisions shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

22nd June, 2018.
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