**HON'BLE SRI JUSTICE A. SHANKAR NARAYANA**

**APPEAL SUIT No.310 OF 2008**

**JUDGMENT:**

The present regular Appeal Suit is preferred under Section 96 of the Code of Civil Procedure, 1908, by the plaintiff - Vijaya Bank, aggrieved over that portion of judgment and decree, dated 22.09.1995, passed in O.S. No.189 of 1987, by the learned Subordinate Judge, Kovvur, that stood adverse to his interest.

2. The appellant herein is the plaintiff in O.S. No.189 of 1987 on the file of the Subordinate Judge, Kovvur, while respondents are the defendants.

3. For the sake of convenience, the parties are hereinafter referred to as they were arrayed in the aforesaid suit.

4. The suit in O.S. No.189 of 1987 was filed by the plaintiff for recovery of Rs.49,494.40ps., which includes even interest due on mortgage bond, dated 28.09.1977, executed by defendant No.1 for a loan amount of Rs.10,000/- borrowed by him agreeing to repay with interest at 15% per annum with quarterly rests creating a charge over the plaint schedule property and executed all relevant documents. The guarantor, who has executed a letter of guarantee, was no more as he died even before the suit was filed and defendant Nos.2 to 6, are his legal representatives. There were certain other facts narrated by the Court below in relation to relevant documents, which facts are

unnecessary to refer in view of the short controversy that arises for consideration in the present appeal suit.

5. Today, when the appeal suit was called in the morning session, there was no representation, therefore, it was kept aside and it was called again in the after-noon sessions, still, there is no representation. Sri K. Jyothi Prasad, learned counsel for the respondents is present. Heard the learned counsel for the respondent

6. The Court below passed the judgment on 22.09.1995, on appraisal of evidence let in by the plaintiff through PW.1 and Exs.A-1 to A-11, recorded findings on issue Nos.1 and 2 taking up both together as they require one and the same discussion based on appreciation of evidence on record, holding that the loan in the present suit was granted when the plaintiff bank was not Nationalized and relied on the ruling of the Hon'ble Supreme Court in **Life Insurance Corporation of India v. Kota Ramabrahmam**[1], wherein it was held that loans granted before Nationalization of any financial institution would continue to govern by the provisions of Andhra Pradesh Act 4 of 1938, recorded a finding that the plaintiff is entitled for simple interest at the rate of 12.5% per annum on the originally borrowed amount of Rs.10,000/- and subsequent interest at the rate of 6% per annum. That has been under challenge in the present regular appeal suit.

[1]. AIR 1977 SC 1704

7. In fact, there is no dispute in regard to the borrowal of loan as the same is admitted by defendant No.1, but, however, he disputed the stipulation as to interest. When the Hon'ble Apex Court in the aforesaid ruling declared the law and applied by the Court below as the plaintiff bank had lent the amount before it was nationalized, certainly, a different view cannot be taken from the one which was expressed by the Court below as it is in accordance with the law laid down by the Hon'ble Apex Court.

8. Thus, when viewed, there is absolutely no merit in the present appeal suit and, therefore, the same is dismissed, directing the parties to bear their own costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in the appeal suit, stand closed.

**A. SHANKAR NARAYANA, J**

**January 23, 2018.**
Mgr