THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

C.R.P.No.2645 of 2018

Date: 27.04.2018

Between:

1. Dandu Appal Raju (died)

2. Smt.Dandu Satyavathi,
W/o.Late Appala Raju,
Hindu Aged about 60 years,
R/o.Daspalla Hills,
Visakhapatnam
and three others … Petitioners

And

Sri Vijay Mittal, S/o.C.L.Mittal,
Hindu, Aged 54 years,
R/o.Mittal Chambers,
10-1-13/2, Aslimetta,
Visakhapatnam
and four others … Respondents

Counsel for the Petitioners : Mrs.P.Padmavathi for Mr.P.Hemachandra

Counsel for the Respondents:

The Court made the following:

Order:

This civil revision petition arises out of order dated 09.03.2018 in I.A.No.7 of 2018 in O.S.No.180 of 2009 on the file of the VI Additional District Judge, Visakhapatnam.

2. I have heard Mrs.P.Padmavathi, counsel representing Mr.P.Hemachandra, counsel for the petitioners and perused the record.

3. The respondents/plaintiffs had filed the aforementioned suit for a preliminary decree for payment of a sum of Rs.1,58,60,721-28 paisa/-, covered by mortgages and also for grant of personal decree against the petitioners/defendants No.3 to 5, in case the sale proceeds are not sufficient for satisfying the decretal amounts, etc. The petitioners have filed a written statement denying their liability. When the trial was in progress, the defendants filed I.A.No.7 of 2018, for return of the plaint for presentation in Commercial Court, for adjudication of the claim. This application having been dismissed, the defendants have filed the present revision petition.

4. Section 2 (i) (c) of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (for short 'the Act'), defines commercial dispute, as a dispute arising out of ordinary transactions of merchants, bankers, financiers and traders, such as those relating to mercantile documents, including

enforcement and interpretation of such documents. It is not the pleaded case of the petitioners/defendants that the respondents/plaintiffs are merchants, banker, financiers, or traders and that in connection with the transactions in such capacities, they have lent the loan amounts to the petitioners.

5. At the hearing, the learned counsel for the petitioners has drawn my attention to paragraph 3 (m) of the plaint averments, wherein he has pleaded that loan as a commercial transaction is secured by a registered deed of mortgage of urban immovable property. In my opinion, every commercial transaction would not fall within the definition of "commercial dispute", unless such commercial transactions are carried on by merchants, traders, financiers *etc.* Indeed, the aforementioned averment is made by the respondents/plaintiffs, in the context of pleading that the petitioners are not small farmers and, therefore, are not entitled to any relief under the debt relief laws and that they are liable to pay interest as per the agreements.

6. In these facts and circumstances of the case, I do not find any error of law or jurisdiction, in the order of the lower court for interference, in exercise of the supervisory jurisdiction of this Court under Article 227 of the Constitution of India.

7. The civil revision petition is accordingly dismissed.

8. As a sequel to the dismissal of the civil revision petition, miscellaneous applications if any, stand dismissed.

(C.V.Nagarjuna Reddy, J)

Date: 27th April, 2018

msb