

THE HONOURABLE SRI JUSTICE SANJAY KUMAR
AND
THE HONOURABLE SRI JUSTICE M.GANGA RAO

COMMERCIAL COURT APPEAL No.17 of 2018

JUDGMENT: (per Hon'ble Sri Justice Sanjay Kumar)

The appellant is the plaintiff in COS(SR) No.5687 of 2017 on the file of the learned XIII Additional District Judge-cum-Commercial Court Judge, Ranga Reddy District at L.B.Nagar (*hereinafter*, 'the Commercial Court'). The said suit was filed for recovery of a sum of Rs.1,02,50,000/- along with interest thereon and costs. The trial Court rejected the plaint at the threshold, *vide* docket order dated 23.03.2018. This order reads to the effect that as the appellant/plaintiff's suit claim of Rs.1,02,50,000/- comprised damages, losses and indirect expenses also, the same were liable to be excluded for the purpose of determining jurisdiction of the Commercial Court in terms of the definition of 'Specified Value' in Section 2(1)(i) of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (*for short*, 'the Act of 2015'). The Commercial Court, having deducted the amounts claimed under those heads, opined that as the balance would be less than Rs.1.00 Crore, it would not have jurisdiction and accordingly rejected the suit leaving it open to the appellant-plaintiff to file it in an appropriate forum.

As the suit was rejected at the inception without being registered, the respondent herein, being the defendant in the suit, is not entitled to an audience. However, by inadvertence, it appears that this Court ordered notice before admission on 30.07.2018 and pursuant thereto, Sri Rohit Pogula, learned counsel, entered appearance for the respondent-defendant. We are however of the considered opinion that as the matter

was still at the stage of registration of the suit, the respondent-defendant is not entitled to a hearing.

Sri M.V.Subba Reddy, learned counsel for the appellant-plaintiff, would bring it to the notice of this Court that the Act of 2015 was recently amended with effect from 03.05.2018, whereby the Specified Value, as defined under Section 2(1)(i) thereof, has been amended and brought down to Rs.3,00,000/-.

That apart, Section 2(1)(i) of the Act of 2015, even as it stood prior to its amendment, merely stated that the Specified Value in relation to a commercial dispute shall mean the value of the subject matter in respect of a suit, as determined in accordance with Section 12, which shall not be less than Rupees one Crore. Section 12 of the Act of 2015 sets out the procedure for determining the Specified Value of the subject matter of the commercial dispute. Significantly, Section 12(1)(a) states to the effect that where the relief sought in a suit is recovery of money, the amount sought to be recovered inclusive of interest, if any, computed upto the date of filing of the suit shall be taken into account for determining such Specified Value. Therefore, irrespective of the various heads under which the appellant-plaintiff claimed amounts, the aggregate sum of Rs.1,02,50,000/- sought to be recovered would automatically have to be brought within the ambit of Section 12(1)(a) of the Act of 2015. It was therefore not open to the Commercial Court to exclude any sums on the ground that they were claimed as damages, losses or indirect expenses. The sum total of the money claimed in the suit would invariably be taken to be the Specified Value of the commercial dispute in the suit as per Section 12(1)(a) of the Act of 2015.

In that view of the matter, the Commercial Court was not justified in rejecting the suit on the ground of jurisdiction by deducting some of the amounts claimed by the appellant-plaintiff by way of the suit prayer. The docket order dated 23.03.2018 passed by the Commercial Court is accordingly set aside and the Commercial Court is directed to entertain the subject suit and adjudicate the same on its own merits and in accordance with law.

The appeal is allowed. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

M. GANGA RAO, J

Date: 26.12.2018

Note:-

Registry is directed to return the original record of the trial Court to the learned counsel for the appellant upon its substitution with the photocopies.

(B/o)

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