

HON'BLE Smt. JUSTICE P.SREE SUDHA

APPEAL SUIT Nos.868 of 2002 and 1230 of 2000

C O M M O N J U D G M E N T

1. A.S.No.868 of 2002 is filed by Defendant Nos.26 and 29 against the judgment dated 20.12.1999 passed in O.S.No.186 of 1996 (Old O.S.No.219 of 1991) on the file of the learned Senior Civil Judge, Mahabubabad.

2. The plaintiff filed suit for damages and loss of prestige in the society to an extent of Rs.1,50,000/- and a direction to the defendants to pay the said amount with interest @ 12% per annum from the date of suit till realisation. The plaintiff is a Ward Member of Balapala Village and Gram Panchayat and her husband Babu Rao was the Upa-sarpanch of the said Gram Panchayat. The plaintiff would submit that they are agriculturalist by profession and belong to respectable family and that they belong to CPI (M) party. The plaintiff would also submit that the defendants are the supporters of the rival parties viz., Telugu Desam, Congress and CPI. One Mr.Ravula Srinivas Rao is the leader of the party of the defendants and they are also residents of the same village. He

had a rivalry with the family of the plaintiff. On 29.08.1989 at about 8.00 A.M. in the absence of the husband of the plaintiff, all the defendants formed into an unlawful assembly, forcibly trespassed into the house of the plaintiff with a malicious intention to damage and destroy household articles and looted away the valuables by threatening the inmates including the plaintiff with dire consequences and also abused them in filthy language. The list of the damaged items were given in detail in the plaint and total loss caused to the tune of Rs.75,000/- as per the plaintiff. After arrival of her husband the plaintiff gave complaint in Dornakal Police Station and a case in Crime No.56 of 1989 under Sections 147, 452, 382, 427 r/w Section 149 IPC were registered and charge-sheet was also filed against the defendants. The plaintiff would submit that due to the acts of the defendants the family of the plaintiff sustained loss and reputation in public and as such the plaintiff estimated the loss of reputation at Rs.75,000/- and the loss of property at the rate of Rs.75,000/- and finally prayed this Court to grant decree towards damages against the defendants.

3. Defendant Nos.1 to 10 filed their written statement and it was adopted by Defendant Nos.11 to 44 by filing a memo. The defendants admitted that the plaintiff is a Ward Member and her husband is a Upa-sarpanch but stated that they do not know whether they are strong supporters of CPI (M) party in the village. The defendants would further state that they are not the supporters of any political parties and they denied the other allegations of trespassing, looting, destroying of properties and submitted that the suit is filed only to gain sympathy at the instance of her husband. The defendants would also submit that R.Srinivasa Rao is not the leader of Defendant Nos.2 to 46 and did not know about the rivalry between R.Srinivasa Rao and Babu Rao. The defendants would admit with regard to filing of the complaint in Cr.No.56 of 1989 by the plaintiff but stated that it is a false complaint and submitted that the plaintiff and her husband are having rowdy elements and they were harassing the villagers those who are opposing them. As Defendant Nos.1 to 44 did not come into the fold of the plaintiff, they filed a false case and also filed the present suit only to harass them. The defendants would also submit that they never indulged in

any illegal activities and not caused damage to the household articles and they never humiliated or damaged the prestige or lowered the dignity of the plaintiff's family in the society and they never used any un-parliamentary language against the family members of the plaintiff and thus requested the Court to dismiss the suit with exemplary costs.

4. Initially the suit was filed before the I Additional Sub-Ordinate Court, Warangal, and wherein Defendant Nos.1 to 10 filed their written statement and the same was adapted by the Defendant Nos.11 to 44 by way of a memo. The suit was decreed *ex parte* on 03.05.1997 against D.1 to D.41 and dismissed against D.42 to D.44. Later D.1, D.4 to 6, 8, 21, 26 and 29 filed a petition to set aside the *ex parte* decree and the rest of the defendants did not file any petition. Therefore, the *ex parte* decree passed on 03.05.1997 is subsisting against defendant Nos.2, 3, 7, 9 to 20, 23 to 25, 27, 28 and 30 to 41. The trial Court considering the evidence on record and the arguments advanced by both sides granted decree in favour of the plaintiff for an amount of Rs.1,50,000/- with interest at the rate of 12% per annum from the date of suit till the

date of decree and at the rate of 6% per annum from the date of decree till realisation.

5. As the *ex parte* decree was already subsisting against some of the defendants, it was held that they are equally liable to pay the damages awarded to the plaintiff along with D.1, 4 to 6, 21, 26 and 29. Aggrieved by the said judgment defendant Nos.1, 4 to 6, 8, 21 and 22 filed A.S.No.1230 of 2000.

6. Heard the learned counsel for the appellants-defendants and the learned counsel for the respondent-plaintiff on 01.11.2022 and both the appeals are reserved for judgment.

7. In fact, the suit is filed by the plaintiff against the defendants for damages to an extent of Rs.75,000/- and for loss of property to an extent of Rs.75,000/-. The plaintiff herself was examined as P.W.1 and she also examined P.Ws.2 to 6 on her behalf and marked Ex.A1 to A5. The defendants examined D.Ws.1 and 2 and marked Exs.B1 and B2 on their behalf. The plaintiff issued legal notice to the defendants under Ex.A3 dated 30.08.1990. Though the defendants

received the same on 12.09.1990, they gave reply on untenable allegations and as such the plaintiff filed suit for damages. Defendants stated that plaintiff filed a false criminal case and ultimately it was in ended in acquittal and as such civil suit is not maintainable for damages.

8. The trial Court after considering the evidence of P.Ws.1 to 6 held that defendants trespassed into the house of plaintiff on 21.08.1989 with a common intention and caused damages to the properties and the evidence of P.Ws.1, 4 to 6 is consistent, cogent and corroborative in all material aspects. P.W.6 deposed that she is an eye witness to the occurrence and submitted that defendants committed looty in the house of P.W.1 and P.W.3 and also in her house along with other houses. Apart from oral evidence the trial Court also considered Ex.A2 to A5 ie., the complaint given by the plaintiff stating that the defendants trespassed into her house, damaged certain household articles and committed theft of certain articles including two tulas of gold and papers pertaining to the lands and paddy bags. The defendants also trespassed into the houses of E.Somaiah, J.Madhava Rao, N.Saidulu and Ch.Ramakota. In the charge sheet it was

observed that the accused in Cr.No.55 of 1989 convened meeting in the house of E.Somaiah on 26.08.1989 and took a decision to attack and beat N.Venkateswarulu. Having heard the plan of M.Babu and others from L.W.5, the accused grew wild and enraged and went to the house of M.Babu on 29.08.1989 at 8.00 hours and damaged the household articles. On 01.10.1990 at the instance of A.40 one paddy bag was seized from A.1 and another seized from A.42 and A.40 under a cover of panchanama. Ex.A5 is the scene of offence panchanama in which it was held that damage caused to the house may be worth Rs.2,000/-. The trial Court observed that D.W.1 stated that P.W.3 husband of plaintiff was a goonda in the village and thus caused damage and reputation to him. It was also observed that as per the entire evidence on record except D.42 to D.44 the other caused damage to the property and to the reputation of family of the plaintiff. The trial Court also observed that if at all P.W.3 was a goonda he might not have elected as a Upa-sarpanch of the village and there is no proof that he was goonda and as such it amounts to causing damage to the reputation of the plaintiff's family and accordingly granted

damages to an extent of Rs.75,000/- and Rs.75,000/- towards loss of property ie., in total Rs.1,50,000/- with interest at the rate of 12% per annum.

9. Though the defendants preferred an appeal, they simply stated that the learned Senior Civil Judge, erred in believing the evidence of P.Ws.1, 3 and 6 as genuine and acceptable and erred in coming to the conclusion that the evidence of D.Ws.1 and 2 has no sanctity and also erred in observing that there is no whisper in the evidence of D.Ws.1 and 2 and they have not participated in looting. The defendants further submitted that the trial Court ought to have apportioned the liability of each of the defendants separately and erred in accepting the plea of the plaintiff in the absence of any evidence. The findings of the trial Court is without any basis and prayed to set aside the judgment under appeal.

10. The trial Court considering the evidence on record, appreciated it properly and arrived to the conclusion that the defendants criminally trespassed into the house of the plaintiff, caused damage to property and also committed theft of certain household articles apart from abusing. The

allegation of the defendants that they were acquitted in the criminal Court and as such the plaintiff is estopped from arguing that they are goondas. It is to be noted here that the judgment rendered in criminal matters is not binding on the civil Court. Therefore, the trial Court rightly decreed the suit in favour of the plaintiff and this Court finds no infirmity in the judgment under appeal and it needs no interference.

11. In the result, both the appeal are devoid of merit and are accordingly dismissed with costs.

12. Miscellaneous Petitions, if any, pending in this revision shall stand dismissed in the light of this final order.

P.SREE SUDHA, J.

22nd NOVEMBER, 2022.

PGS