

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**TUESDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND TWENTY TWO**

**PRESENT
THE HONOURABLE SRI JUSTICE SAMBASIVA RAO NAIDU**

APPEAL SUIT NO: 2798 OF 2004

Appeal under Section 96 of CPC against the Judgment and decree dated 19.04.2004 made in OS No.24 of 2003 on the file of the Court of the Senior Civil Judge, Wanaparthy.

Between:

1. The Superintendent Engineer, A.P. Transco Operations Mahabubnagar Mahabubnagar District.
2. The Assistant Divisional Engineer, Operations, A.P. Transco, Pangal (M) Madhabubnagar District.
3. The Divisional Engineer, Operations, A.P. Transco, Wanaparthy Mahabubnagar District.

...APPELLANTS/ DEFENDANTS

AND

1. K. Shakunthamma, W/o. late K.Venkat Reddy Household
2. K.Jothinanda Reddy, S/o. late K.Venkat Reddy Student
3. K.Rajavardhan Reddy, late K.Venkat Reddy Student
(Respondents Nos.1 & 3 are residence of Kalwarala Village, Pangal Mandal, Mahabubnagar District.)

...RESPONDENTS/ PLAINTIFFS

ASMP. NO: 12324 OF 2004

Petition under Section 151 of CPC praying that in the circumstances stated in the affidavit filed herein, the High Court may be pleased to stay all further proceedings in pursuance of the decree and Judgment dated 19-4-2004 in OS No. 24 of 2003 on the file of Senior Civil Judge, at Wanaparthy pending final disposal of the above appeal

ASMP. NO: 13750 OF 2004

Between:

1. Smt K. Shakunthamma, W/o. late K.Venkat Reddy Household
2. K.Jothinanda Reddy, S/o. late Venkat Reddy Student
3. K.Rajavardhan Reddy, S/o. late Venkat Reddy Student
(All are R/o.Kalwarala Village, Pangal Mandal, Mahabubnagar District.)

...PETITIONERS/ RESPONDENTS/ RESPONDENTS

AND

1. The Superintendent Engineer, A.P. Transco Operations Mahabubnagar Mahabubnagar District.
2. The Assistant Divisional Engineer, Operations, A.P. Transco, Pangal (M) Madhabubnagar District.
3. The Divisional Engineer, Operations, A.P. Transco, Wanaparthi Mahabubnagar District.

...RESPONDENTS/ PETITIONERS/APPALLANTS

Petition under Section 151 of CPC praying that for the reasons stated in the accompanying affidavit, the High Court may be pleased to vacate the interim stay granted in ASMP No.12324/2004 dt.4-8-2004 in AS No.2798/2004 as against the decree dt.19-4-2004 in OS No.24/2003 on the file of Senior Civil Judge, Wanaparthi, Mahabubnagar pending AS No.2798

For the Appellants : SRI K.V.RAJENDRA PRASAD, Advocate

For the Respondents : SRI M.DAMODAR REDDY, Advocate

The Court delivered the following : JUDGMENT

THE HON'BLE SRI JUSTICE SAMBASIVA RAO NAIDU

A.S.No.2798 of 2004

JUDGMENT :

This appeal has been preferred against the judgment and decree in O.S.No.24 of 2003 filed by the respondents/plaintiffs for compensation of Rs.3,00,000/- with interest on account of death of one Venkat Reddy, who herein after will be referred as deceased.

2. O.S.No.24 of 2003 has been filed by the respondents/plaintiffs with an averment that first respondent is his wife and other respondents/plaintiffs are his children. He has got agricultural lands with a well connected with electric motor and service connection. On 19-11-2000 at about 9.00 a.m., the deceased died due to electrical shock in his fields when he switched on the current motor that is fitted to the agricultural well. The respondents have claimed that one high tension live wire which was snapped from main line fell on the low tension line as both the lines are passing on the same pole, there was electrical supply to the current motor and it caused the death of the deceased Venkat Reddy.

Therefore, the respondents/plaintiffs filed the suit and sought for a sum of Rs.3,00,000/- towards compensation. They have claimed that the deceased was only the bread winner of the family. After registering the suit, the trial Court issued summons to the defendants i.e., appellants herein. The notice was served on the learned counsel for the appellants herein but he did not make his appearance. Personal notices were also served on D1 to D3, even then there was no representation and no written statement was filed thereby, they were set *ex parte*. The respondents have examined PW.1 through whom Exs.A1 to A9 were marked. The Court below accepted the claim of respondents and passed a decree directing the appellants herein to pay Rs.3,00,000/- with costs and subsequent interest @ 6% per annum.

3. The present appeal is filed on the following grounds namely the decree and judgment of the trial Court is contrary of law, weight of evidence, and probabilities of the case. The trial Court ought not to have decreed the suit in view of the fact that the Transmission Corporation Act of A.P., is to be non-suited because the electricity distribution and supply work was entrusted to the Central Power Distribution

Company Limited as per new enactment. The suit was originally filed before the Senior Civil Judge, Nagarkurnool subsequently, transferred to the Senior Civil Judge Court at Wanaparthy. An opportunity could have been afforded to the appellants herein for submitting their case. Appellants have also claimed that Ex.A6 clearly show that the accident occurred due to short circuit, there was no negligence on their part thereby, sought for setting aside the judgment.

4. I have heard the learned counsel for the appellant who argued that no proper opportunity was given to the appellants to contest the suit. This is a fit case for remanding the matter to the trial Court and on the other hand, the learned counsel for the respondents/plaintiffs submitted that the accident occurred way back on 19-11-2000 i.e., about more than 21 years ago. A meager amount of Rs.3,00,000/- was awarded as compensation for the death of deceased due to electric shock when there was power supply to the current motor. Therefore, there are no grounds to set aside the judgment and there are no grounds to remand the matter to the trial Court and sought for dismissal of the appeal.

5. Now the point for consideration is :

Whether there are grounds to set aside the judgment and decree of the trial Court ?

6. As per the material placed before the Court including the judgment which is under challenge in the present appeal, it was the case of the respondents that on 19-11-2000, the deceased Venkat Reddy suffered electric shock when he tried to switch on the current motor which was fitted to the agricultural well. It was specifically alleged that there was power supply due to the fall of live high tension wire and low tension wire resulting power supply to the current motors. Therefore, it is nothing but negligence on the part of appellants herein. It is the duty of the department to see there should not have been such power supply to the current motor. As per the findings in Para No.4 of the judgment, it is very clear that apart from summons to the appellant herein, personal notices were also issued informing the claim of respondents/plaintiffs but the officials did not choose to contest the suit and allowed the judgment and decree to be passed. Therefore, there is negligence not only in the maintenance of the live wires but also in prosecuting the claim. Therefore, absolutely there are no grounds to set

aside the judgment or even to refer the matter to the Court below after a period of 21 years. Therefore, the appeal is liable to be dismissed.

7. In the result, appeal is dismissed.

Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

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Sd/-B.S.CHIRANJEEVI
JOINT REGISTRAR

SECTION OFFICER

To

1. The Senior Civil Judge, Wanaparthy, Mahabubnagar District. (with records)
2. One CC to M/s Kanakamedala Ravindra Kumar, and Sri K.V.Rajendra Prasad, Advocates [OPUC]
3. One CC to Sri M.Damodar Reddy, Advocate [OPUC]
4. Two CD Copies
5. One Spare Copy

Kj.



HIGH COURT

DATED:19/07/2022

JUDGMENT

AS.No.2798 of 2004



DISMISSING THE A.S., WITHOUT COSTS.

⑥
v/v
14/12/22

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

TUESDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND TWENTY TWO

PRESENT
THE HONOURABLE SRI JUSTICE SAMBASIVA RAO NAIDU

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...RESPONDENTS/ PLAINTIFFS

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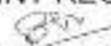
ORDER: This appeal coming on for hearing and upon perusing the grounds of appeal, the Judgment and decree of the Lower Court and the material papers in the suit and upon hearing the arguments of M/s K.Ravindra Kumar, and Sri K.V.Rajendra Prasad, Advocates for the appellants and of Sri M.Damodar Reddy, Advocate for the Respondents.

This Court doth Order and decree as follows :-

1. That the Appeal Suit be and hereby is dismissed; and
2. That there be no Order as to costs.

Sd/-B.S.CHIRANJEEVI
JOINT REGISTRAR

//TRUE COPY//


SECTION OFFICER

To

1. The Senior Civil Judge, Wanaparthi, Mahabubnagar District.
2. Two CD Copies
3. One Spare Copy

Kj.



HIGH COURT

DATED:19/07/2022

DECREE

AS.No.2798 of 2004

DISMISSING THE A.S., WITHOUT COSTS.

④ VVJ
14/12/22