

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

**MONDAY, THE FOURTEENTH DAY OF AUGUST
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SMT JUSTICE P.SREE SUDHA

APPEAL SUIT NO: 518 OF 2008

Appeal under section 96 of C.P.C against the Judgment and Decree Dated 22/12/2005 made in O.S.No. 1247 of 2003 on the file of the Court of the IV Additional Senior Civil Judge, FTC, R.R.District.

Between:

Oriental Bank of Commerce, Autonagar Branch, Ranga Reddy Dist, Rep. by its GPA Holder and Branch Manager, G. Saibabu

...APPELLANT/PLAINTIFF

AND

1. M/s Sai Sekhar Automobiles, Rep. by its propertrix B.K. KUmari R/o 12-56/1, Op Autonagar, Hyderabad
2. B. Kusuma Kumari, R/o 12-56/1, Op Autonagar, Hyderabad
3. B. Chandrasekhar, s/o Koteswar Rao R/o Pasumarru Village, Pammaru Mandal, Krisna District

R-1 & R - 2 dismissed for default vide Court Order dated 25-04-2016

...RESPONDENTS/DEFENDANTS

Counsel for the Appellant : SRI. KALPANA EKBOTE

Counsel for the Respondent No.3 : SRI. CH DURGA PRASAD

The Court delivered the following: JUDGMENT

THE HON'BLE SMT JUSTICE P. SREE SUDHA

APPEAL SUIT No.518 OF 2008

ORDER:

Learned counsel for the appellant and as well as learned counsel for respondent No.3 are present. Heard the arguments on both sides.

2. This Appeal Suit is filed against the judgment in O.S.No.1247 of 2003 dated 22.12.2005 passed by the IV Additional Senior Civil Judge (FTC), Ranga Reddy District at L.B.Nagar. The suit in O.S.No.1247 of 2003 dated 22.12.2005 is filed by the Oriental Bank of Commerce for recovery of amount of Rs.9,87,117/- with interest @ 17.5% per annum. The plaintiff was examined-in-chief as Pw.1 and Exs.A1 to A13 were marked, thereafter as Pw.1 could not turn up for cross examination, inspite of several adjournments. It was held that the plaintiff remained unproved and accordingly, the suit was dismissed. Aggrieved by the said order, this appeal is preferred in the year, 2008.

3. Learned counsel for the appellant submitted that as the Chief examination along with documents filed before the trial Court, the trial Court ought not to have been dismissed the suit for default but ought to have decreed the suit on merits and

no reasonable opportunity was given to the appellant to prove their claim. In the written statement filed by the respondents, there is admission on their part regarding the suit claim. But the trial Court erred in not considering the documents filed by them and also not discussed about the documents. Therefore, the learned counsel for the appellant requests this Court to allow the appeal and to set aside the judgment of the trial Court passed in O.S.No.1247 of 2003.

4. Both counsel requested this Court to remand the matter for giving opportunity to Pw.1. The learned counsel for the appellant stated that the appellant was a Government Employee and could not take leave on that day as such, he could not appear before the Court and also filed an Interlocutory application in O.S.No.1247 of 2003 to reopen the evidence, but it was also dismissed.

5. As the trial Court could not given reasonable opportunity to the Pw.1, this Court is of the opinion that, to remand the matter with a direction to dispose of the suit on merits by duly giving opportunity to both sides. Accordingly, the Appeal Suit is allowed setting aside the Judgment dated 22.12.2005 passed by the by the IV Additional Senior Civil Judge (FTC), Ranga Reddy District at L.B.Nagar. Admittedly,

the suit is pertaining to the year, 2009, therefore, both the parties are directed to co-operate with the trial Court. This Court is specifically directing the by the IV Additional Senior Civil Judge (FTC), Ranga Reddy District at L.B. Nagar to dispose of the suit within a period of three (03) months from the date of receipt of a copy of this order.

Miscellaneous petitions pending, if any, shall stand closed.

SD/- K SRINIVASA RAO,
JOINT REGISTRAR.

//TRUE COPY//



SECTION OFFICER

To,

1. The IV Additional Senior Civil Judge, FTC, R.R.District.
2. One CC to SRI. KALPANA EKBOTE, Advocate [OPUC]
3. One CC to SRI. CH DURGA PRASAD, Advocate [OPUC]
4. Two CD Copies

ADK

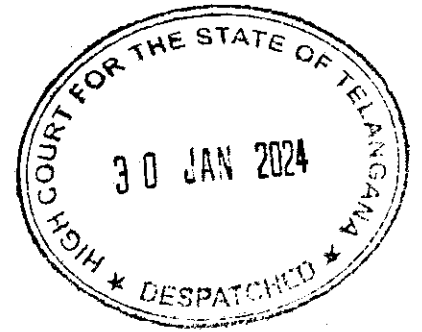


HIGH COURT

DATED:14/08/2023

JUDGMENT

AS.No.518 of 2008



ALLOWING THE APPEAL SUIT