



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF JANUARY, 2025

PRESENT

THE HON'BLE MR JUSTICE V KAMESWAR RAO

AND

THE HON'BLE MR JUSTICE S RACHAIAH

COMMERCIAL APPEAL NO. 345 OF 2022

BETWEEN:

REGIONAL MANAGER IRCTC,
#82, 1ST FLOOR,
SMR ARCASE,
DR.RAJKUMAR ROAD,
2ND BLOCK, RAJAJINAGAR,
BENGALURU-560 010.

...APPELLANT

(BY SRI.ABHINAY Y T., ADVOCATE)

AND:

1. AMULYA ENTERPRISES
REP. BY ITS PROPRIETOR,
MAHESH KUMAR,
HAVING ITS OFFICE AT # 37,
8TH CROSS, KGE LAYOUT,
RMV 2ND STAGE,
BENGALURU-560 094.
2. GROUP GENERAL MANAGER,
(SOUTH ZONE), IRCTC,
#6A, THE RAIN TREE PLACE,
#9, MC NICHOLS CHETPET,
CHENNAI-600 031.

Digitally signed
by PRAJWAL A
Location: High
Court of
Karnataka



3. INDIAN RAILWAY CATERING AND
TOURISM CORPORATION LTD., (ITCTC),
REP. BY ITS CHAIRMAN
AND MANAGING DIRECTOR,
B-148, 11ST FLOOR,
STATESMAN HOUSE,
BARAKHAMBA ROAD,
NEW DELHI-110 001.

...RESPONDENTS

(BY SRI. MANJUNATH B S (SUO ASSTS).,ADVOCATE)

THE ADVOCATE FOR THE APPELLANT HAS FILED THE
ABOVE COMAP / COMMERCIAL APPEAL UNDER SECTION
13-1A OF THE COMMERCIAL COURTS ACT, 2015, PRAYING
THAT THIS HONBLE COURT MAY KINDLY BE PLEASED TO
SET ASIDE THE JUDGMENT DATED 28/06/2022 PASSED BY
THE LEARNED LXXXVIII ADDL. CITY CIVIL AND SESSIONS
JUDGE, BENGALURU (CCH-89) IN COM.OS.NO.376/2021
AND CONSEQUENTLY DISMISS THE SUIT ETC., BEFORE
THE REGISTRAR (P AND H).

THIS APPEAL, COMING ON FOR FINAL HEARING,
THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS
UNDER:

CORAM: HON'BLE MR JUSTICE V KAMESWAR RAO
AND
HON'BLE MR JUSTICE S RACHAIAH

ORAL JUDGMENT

(PER: HON'BLE MR JUSTICE V KAMESWAR RAO)

This appeal has been filed by the Regional
Manager of IRCTC, Bengaluru, challenging the
judgment/decreed dated 28.06.2022 passed by the Court of



LXXXVIII Additional City Civil and Sessions Judge in Com.OS No.376/2021, whereby the learned Sessions Judge has decreed the suit filed by the respondent herein, by stating as under:-

"The suit of the plaintiff is decreed with cost.

The defendants are jointly and severally liable to pay the decreetal amount of Rs.3,12,344/- with interest @12% p.a., from the date of suit till its realisation.

Draw decree accordingly."

2. The facts required to be noted are that, the plaintiff/respondent-M/s. Amulya Enterprises is involved in business of Travel and Hospitality Services. The appellant-Regional Manager and respondent no.1 entered into agreement dated 10.06.2010 whereby the respondent no.1 was to provide high end Cars on hire basis to the Chief Regional Manager in Bengaluru, for a period of 26 days in a month at the rate of Rs.33,000/-. As per the agreement, a security deposit of Rs.10,000/- was made with the appellant.



3. The case of the respondent no.1 before the learned Sessions Judge was that, the appellant was not prompt and regular in making the payment. There were short and irregular payments and even after adjustment of all the payments made by the appellant, the appellant was still liable to pay a sum of Rs.1,44,140/- out of Rs.5,17,850/-, and after deducting the sum of Rs.3,83,710/- a further amount of Rs.1,44,140/- including a sum of Rs.10,000/- being the security deposit has been illegally with-held by the appellant. Accordingly, a suit was filed for the balance amount of the bills (for Rs.1,44,140/-) raised and also the security deposit with interest @12% p.a., effective from 11.05.2011 till the payment is made.

4. The written statement filed by the appellant reveals that, it had availed the services of the respondent no.1 from June 2010 to February 2012 and from August 2012 to May 2013. The appellant had awarded the contract at the rate of Rs.33,000/- per month for 36



months, all inclusive. The complete payments have been made to the respondent no.1 and as such, nothing was payable.

5. We may state here that the appellant in the written statement has averred that no amount is due and payable to the respondent no.1, except the security deposit.

6. The learned Sessions Judge has framed the following two issues and an additional issue for his consideration:-

" Issues:

- i) *Does the plaintiff prove that he has provided high end car service on hire basis to the defendants as per the agreement dated 10.06.2020?*
- ii) *Does the plaintiff prove that the defendants are not in prompt and regular in the matter of payment are due a sum of Rs.3,12,344.00?*
- iii) *Does the plaintiff prove that the defendants in spite of legal notice were failed to repay the due amount as sought?*
- iv) *Does the plaintiff is entitled for the relief as sought for?*
- v) *What order or decree?*



Additional Issue:

- i) *Does defendant No.1 proves that the suit of the plaintiff is barred by limitation?*

7. In so far as the additional issue/s of limitation is concerned, the learned Sessions Judge has held in Paragraphs-22 and 23 of the impugned judgment as under:-

*"22. **Additional Issue No.1**: The defendants in response of the suit summons were appeared through their respective counsel and filed the written statement in which they have taken up the contention that the suit of the plaintiff is barred by Article 18 of Indian Limitation Act 1963. On the ground that the plaintiff has sought the relief towards car service on hire basis provided for the period from 11.06.2010 to 10.06.2011 and the said work has been completed on 10.06.2011. The learned counsel for the defendants while canvassing his arguments has submitted the suit which filed by the plaintiff is barred under Article 18 of Limitation Act, thereby the suit which filed by the plaintiff is deserved for dismissal. So, for the proper appreciation of the Article 18 of the Limitation Act is necessary for reproduction which reads like thus:*

18. Effect of acknowledgment in writing.-

(1) Where, before the expiration of the prescribed period for a suit of application in respect of any property or right, an acknowledgment of liability in respect of such



property or right has been made in writing signed by the party against whom such property or right is claimed, or by any person through whom he derives his title or liability, a fresh period of limitation shall be computed from the time when the acknowledgment was so signed.

(2) Where the writing containing the acknowledgment is undated, oral evidence may be given of the time when it was signed; but subject to the provisions of the Indian Evidence Act, 1872 (1 of 1872), oral evidence of its contents shall not be received. Explanation.-For the purposes of this section, -

(a) an acknowledgment may be sufficient though it omits to specify the exact nature of the property or right, or avers that the time for payment, delivery, performance or enjoyment has not yet come or is accompanied by a refusal to pay, deliver, perform or permit to enjoy, or is coupled with a claim to set-off, or is addressed to a person other than a person entitled to the property or right;

(b) the word "signed" means signed either personally or by an agent duly authorised in this behalf; and

The above Article is very much clear where the price of the work done by the plaintiff for the defendant at his request where no time has been fixed for payment the limitation starts when the work is done, in a suit by a contractor for the price of the work done, the limitation starts when the work is done and not when final certificate of work done and payment has been given. In the instant case admittedly the work has not been entrusted to the plaintiff by the defendants in view of the Article which referred above, if that is so the matter



would have been different, but it is the specific case of the plaintiff, that he has provided High End car service on hire basis to the Chief Regional Manager. Therefore, Article 18 of the Limitation Act is not applicable to the case on hand, thus this Court drawn its attention on Article 12 of the Limitation Act which reads like thus:

<i>Description of suit</i>	<i>Period of Limitation</i>	<i>Time from which period begins to run</i>
<i>For the hire of animals, vehicles, boats or household furniture</i>	<i>Three years</i>	<i>When the hire becomes payable</i>

The above Article is very much clear for the recovery of the money towards hire of vehicles is 3 years, when the hire became payable. In the instant case the materials on record reflects the plaintiff has made correspondence to the defendants for the due amount which was payable by the defendants towards avilment of the car service on hire basis and when the defendants were denied for payment of the due amount towards the car service on hire basis, the cause of action has been arisen to file the instant suit, for which the plaintiff in para No.14 of the plaint has clearly stated about the cause of action to file the suit against the defendants. So, if the due which payable by the defendants are taken into consideration the suit which filed by the plaintiff is within the limitation in view of the article which referred above.

23. The learned counsel for the defendants while canvassing his arguments has much argued though there



is no post termed as Chief Regional Manager in the first defendant corporation, the plaintiff has shown the first defendant as Chief Regional Manger. It is an admitted fact Ex.P.13 is the letter addressed to the plaintiff and its counsel dated 03.03.2020 reflects the post of Chief Regional Manager stood has been canceled from March 2012, so if the admission of the defendants in their letter dated 03.03.2020 is taken into consideration that prior to March 2012 there was an post termed as Chief Regional Manager in the first defendant Corporation and moreover in the very letter they have admitted that they were aware the Higher CTC had floated a request for quotation to hire a car for the use of Chief Regional Manager and the very plaintiff participated and awarded the contract. So, if the admission of the defendants as per Ex.P.13 are taken into consideration it is clear that the Chief Regional Manager post was in existence when the defendants were entered an agreement with the plaintiff. It is an admitted fact the defendants were appeared through their respective counsel without opting the provision under order 1 Rule 10(2) of CPC by admitting the same were participated in the entire proceedings. Therefore, the defendants were utterly failed to prove their defence through oral and documentary evidence that the suit of the plaintiff is barred by limitation. Hence, I am of the opinion that the Additional Issue No.1 answered as Negative."

8. The only plea which has been urged by Mr. Abhinay Y.T., the learned counsel for the appellant is that,



the reasoning given by the learned Single Judge on limitation is totally perverse and untenable. According to him, it is the own case of the respondent no.1 that the last payment was made by the appellant was in the year 2011, if that be so the suit having been filed in the year 2021, was clearly barred by time. According to him, there was no correspondence made by the respondent no.1 to claim the amount as has been claimed in the suit. So, according to him, the reasoning given by the learned Sessions Judge that **Ex.P12** which is the legal notice dated **27.02.2020** got issued by the respondent no.1 to the appellant, to which, a **reply (Ex.P13)** dated **03.03.2020** was issued by the appellant stating that, *the respondent no.1 is not entitled to any amount and as such the suit is within time*, is clearly erroneous.

9. On a specific query to the learned counsel for the respondent no.1 Smt.Chethana that, *any correspondence was made post 2011*, her answer was, *the transaction being active and as from time to time, the respondent no.1*



was sending communications to the appellant, the suit was within limitation. We are not in agreement with that submission. The filing of the suit in the year 2021 pursuant to a legal notice got issued by the respondent no.1 to which reply was given by the appellant immediately thereafter, would not make the suit within limitation as the limitation period for making a monetary claim is concedingly three years, which period had expired in the year 2014. That is seven years before the filing of the suit.

10. What is important in this case is, the stand of the appellant that the respondent no.1 is entitled to the refund of the security deposit of Rs.10,000/-. The appellant being a State, within the meaning of Article 12 of the Constitution could not have withheld the payment. The plea of Mr. Abhinay is that, the appellant had been calling upon the respondent no.1 to receive the said payment, but the respondent no.1 has not come forward to receive the payment is not appealing. Nothing precluded the appellant



to send the payment to the respondent no.1 by way of a Demand Draft. In any case, during the course of arguments, Mr.Abhinay do concede that, such a payment is liable to be made by the appellant. If that be so, surely the respondent no.1 shall be entitled to the amount of Rs.10,000/- from the appellant. Though we have set aside the impugned Judgment and decree, still, in view of the submission of Mr.Abinay, the amount of Rs.10,000/- shall be paid to the respondent no.1 with interest @12% p.a., from the date of filing of the suit till the date of deposit of the amount before this Court in terms of the order passed by this Court on 16.11.2023 and for the period thereafter, the interest on the said amount (Rupees Ten Thousand Only) shall be the same, which has accrued on Fixed Deposit. In other words, for the period post 16.11.2023, the interest on the said amount shall be of the Fixed Deposit which amount shall be paid to the respondent no.1 within a period of eight weeks from the date of receipt of the certified copy of this judgment. Upon payment, the



appellant shall be at liberty to withdraw the amount as deposited in this Court with accrued interest (if any).

The appeal is ***allowed.*** No costs.

In view of disposal of this appeal, IA No.1/2024 stands disposed of as infructuous.

**Sd/-
(V KAMESWAR RAO)
JUDGE**

**Sd/-
(S RACHAIAH)
JUDGE**

KGR*
List No.: 1 Sl No.: 24