

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

**FRIDAY, THE TWENTY FOURTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE SRI JUSTICE NARSING RAO NANDIKONDA

FIRST APPEAL NO: 350 OF 2011

Appeal Under Section 96 of C.P.C. against the Decree and Judgment dated 10-08-2010 in O.S.No.418 of 2006 on the file of the I Additional Senior Civil Judge, Warangal.

Between:

S.Kumaraswamy, S/o.Mallaiah, Aged 69 yrs, Occ: Pvt Employee R/o.H.No.5-11-189, Naim Nagar, Hanamkonda, Warangal.

...Appellant/Defendant No.1

AND

1. M/s Kapil Chit Funds Pvt Ltd, rep by its Legal Assistant M.Ranganath O/o. Hanamkonda.
2. Smt M.Laxmi, W/o.Yadi Reddy, Age 38 yrs, Occ: Business R/o.H.No.16-4-368/1, Shiva Nagar, Warangal.
3. Smt T. Suryakala, D/o.Brammananda Rao, Age 55 yrs, Occ: Hosue Rents and Agriculture Income R/o.H.No.3-1-424, Rayapura, Hanamkonda, Waragnal.
4. Sri D. Raja Kaladhar, S/o.Chandra Shekar Rao, Age 57 yrs, Occ: Line Inspector O/o.KUC Sub Station, Hanamkonda, Warangal.
5. Sri G. Chandra Mouli, S/o.Komuraiah, Age 52 yrs, Occ: Pvt Employee R/o.H.No.3-16-264, Goutam Nagar, Hanamkonda, Warangal.
6. Sri D. Ravinder, S/o.D.Laxmaiah, Age 46 yrs, Occ: Dy Trg. Officer R/o.H.No.6-5-54, Machili Bazar, Hanamkonda, Warangal.
7. Sri B. Shyam Sunder, S/o.Ramdas, Age 53 yrs, Occ: Dy Trg. Officer R/o Reddy Colony, Hanamkonda, Warangal.
8. Sri E.Ravinder, S/o.Mondaiah, Age 36 yrs, Occ: Prop. of Sri Rama Iron and Hardware Merchant Kashibugga, Warangal.

[R2 to 8 are not necessary parties in this appeal]

...Respondents/Defendants

I.A. NO: 2 OF 2011(ASMP. NO: 1167 OF 2011)

Petition under Section 151 of CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of execution of the decree dt. 10/08/2010 in OS.No. 418 of 2006 passed by the Hon'ble I Additional Senior Civil Judge, Warangal.

Counsel for the Appellant: SRI C M R VELU

Counsel for the Respondent No.1: SRI K P VIJAY KUMAR

The Court made the following: **JUDGMENT**

HON'BLE SRI JUSTICE NARSING RAO NANDIKONDA

APPEAL SUIT No.350 of 2011

JUDGMENT:

This first appeal is filed by the appellant/defendant No.1 under Section 96 of the Civil Procedure Code, 1908 (for short, 'the CPC') aggrieved by the judgment and decree dated 10.08.2010 passed in O.S. No.418 of 2006 on the file of the learned First Additional Senior Civil Judge, Warangal, wherein the said suit filed by the respondents/plaintiffs was decreed.

2. Heard Sri C.M.R. Velu, learned counsel appearing for the appellant and Sri K.P. Vijay Kumar, learned counsel for respondent No.1 who appeared virtually.

3. For the sake of convenience, the parties herein are referred to as they are arrayed in the suit.

4. The brief facts of the case are that the plaintiff,

who is the Chit Fund Company registered under the Companies Act, has filed a suit against defendant No.1 herein and respondents No.2 to 8 for recovery of a sum of Rs.7,57,889/- together with subsequent interest at the rate of 12% per annum and for costs. Defendant No.1 joined as a member of the chit bearing No.WMT 40 M 50. The value of the chit is Rs.10,00,000/- which is to be paid in 50 installments at Rs.20,000/- per month. Accordingly, he executed an agreement of chit in favour of the plaintiff on 23.10.2004. In the auction held on 28.04.2005, defendant No.1 became successful bidder and agreed to forego an amount of Rs.4,50,000/-. Defendant Nos.2 to 8 stood as guarantors and executed a guarantee agreement and also jointly executed a promissory note for Rs.8,80,000/- towards collateral security for future installments. Subsequently, the plaintiff company

paid the prize amount of Rs.5,50,000/- to defendant No.1 on 18.08.2005. Subsequently, defendant No.1 committed default in payment of the chit installments from 10.02.2006 onwards. As such, a legal notice was issued to all the defendants. The defendants neither gave any reply to the notice nor paid the amount.

5. Defendant No.1 filed separate written statement and defendant Nos.3 and 7 adopted the written statement of defendant No.2, while defendant No.6 also filed separate written statement and it was adopted by defendant No.4. Defendant No.8 remained ex parte. Defendant No.1 admitted that he was a subscriber of the said chit and there is no dispute regarding defendant No.1 becoming successful bidder, but he denied the execution of agreement of guarantee as well as the pronote and also contended that they are fabricated documents.

It is contended that prized money was paid at belated stage and that the plaintiff company did not pay amount of Rs.1,49,397/- to defendant No.1. It was further contended that the company committed breach of terms and conditions of the chit agreement and violated the Rules and further contended that Legal Assistant of the company, who filed the suit, is not competent and authorized to represent the plaintiff's company. Defendant No.2 filed written statement, which was adopted by defendant Nos.3 to 7, contending that she never executed any agreement of guarantee in favour of the plaintiff's company and that defendant No.1 obtained some signatures on some papers and printed proformas without informing the purpose. She never stood as guarantor for defendant No.1 in respect of the suit chit and prayed to dismiss the same.

6. Defendant No.6 filed separate written

statement, which was adopted by defendant No.4, contended that he never executed any agreement of guarantee in favour of the plaintiff's company and that defendant No.1 obtained some signatures on blank and printed proformas and no chit amount was paid to defendant No.1 in terms of chit agreement.

7. Based on the above pleadings, the trial Court framed the following issues and additional issues.

ISSUES:-

1. Whether the plaintiff is entitled for the suit claimed as prayed for.
2. Whether the legal assistance is competent to file a suit on behalf of the plaintiff.
3. To what relief?

ADDITIONAL ISSUES:-

1. Whether the suit is not maintainable on the ground that the plaintiff did not comply the provisions of A.P.Chit Fund Act?

2. Whether the 1st defendant is entitled for dividends as prayed for?

3. To what relief?

8. During the course of trial and enquiry, P.Ws. 1 and 2 (though mentioned in the trial Court judgment P.Ws.1 to 3) were examined and Ex.A1 to A18 were marked on behalf of the plaintiff's company. Though defendant No.1 filed his chief affidavit, he did not chose to enter into the witness box. Hence, no oral or documents evidence was recorded on behalf of the defendants.

9. The trial Court, after considering the oral and documentary evidence on record and upon hearing both the counsel, decreed the suit in favour of the plaintiff and against the defendants. Aggrieved by the same, the present appeal is filed by defendant No.1 alone. No appeal is preferred by the other defendants Nos.2 to 8. Respondent Nos.2 to 8

herein, who are defendant Nos.2 to 8 in the suit were shown as not necessary parties to this appeal.

10. The contention of defendant No.1/appellant in the present appeal is that the Legal Assistant of the plaintiff's company, who filed the suit, is not a competent person and authorized to represent the plaintiff's company and that he does not have any authority to depose evidence. Even though defendant No.1 has taken the said plea in the written statement and further contended that no person can sign on the plaint or the pleadings or depose basing on letter of authorization. Mere filing of authorization does not suffice. Since the Managing Director of the company is not examined, the evidence of PW.s 1 and 2 has no evidentiary value. He also pointed out that the pleadings have to be signed by the Managing Director or by the Secretary. He also pointed out that as per Order XXIX Rule 9 of CPC, there must be

a Board resolution/G.P.A. and he pointed out that in the absence of which the said suit deserves to be dismissed and prayed this Court to allow the appeal.

11. Learned counsel for the plaintiff/respondent No.1 has contended that Order 29 of C.P.C. clearly states that any Officer, who is able to depose the facts of the case, shall sign the plaint and file the suit. He also pointed out that PW.1, being the Branch Manager, has an authorization to file the suit and sign the plaint and so also there are no technical difficulties as to the capability PWs.1 & 2, the learned judge having considered the evidence of PWs.1 and 2 very well and passed a decree. Learned counsel also relied on the judgment of the Apex Court in **United Bank of India Vs. Naresh Kumar & Others**¹ and supported the judgment of the trial Court.

¹ 1996 (6) SCC 660

Having heard both the learned counsel, the points which arise for the consideration before this Court are as follows:-

- 1) Whether the suit is instituted by a proper person or not?
- 2) Whether PWs.1 and 2, who deposed on behalf of the plaintiff company are proper and competent persons?
- 3) Whether the trial Court has committed any error in decreeing the suit?; and
- 4) Whether there are any grounds to interfere with the judgment and decree passed by the learned trial Court?

POINT Nos.1 to 4:

The main grievance of the learned counsel for defendant No.1/appellant is that the person, who signed the plaint, is not a competent person and has no authority to sign the same. But a perusal of the documents which are filed before the trial Court show that the plaint was signed by one Mr. M.Ranganath,

who is said to be the Legal Assistant of the Branch of the plaintiff chit fund company. Learned counsel for respondent No.1 has pointed out that the said Legal Assistant was duly authorized by the Board Resolution and the Letter of Authorization of plaintiff's company, marked as Ex.A16, shows that one Mr. M.Ranganath, Legal Assistant was authorized to represent the company under the Minutes of the meeting of the Board of Directors of Kapil Chit Funds Private Limited held on 17.11.2004 which is marked as Ex.A18. As per the extract of the minutes of the Board Meeting, it clearly shows that the said Mr. M. Ranganath, who signed the plaint, was authorized by the Board Resolution to file the suit and even otherwise in view of the same, this Court feels that he is a competent person and is properly authorized by the Board i.e., Managing Directors and the other Directors. As such the contention of the learned

counsel for defendant No.1 that the suit is filed by a non-competent person cannot be accepted.

12. Coming to the aspect whether PWs.1 and 2 are competent persons to depose on behalf of the plaintiff company, it is to be noted that the person, who has signed the plaint, was examined as PW2 as he was already authorized by the Board of Directors in the minutes of the 889th meeting resolution held on 15.07.2008, which was marked as Ex.A18. So also, PW1 by name Mr. S.Nagender the Recovery Manager was also being authorized by way of 807th meeting Board of Directors which was held on 17.11.2004. A perusal of the said Board Resolutions would clearly show that the plaint is properly instituted. The evidence of Pws.1 and 2, who are the competent persons to represent the plaintiff company has evidentiary value.

13. Coming to the merits of the case, on perusal of the judgment of the trial Court, the learned Judge having gone into oral and documentary evidence which is placed by both the parties, which clearly show that the defendants and in view of the subsequent admission on the part of defendant No.1 that he is subscriber to the said Chit fund and was also a successful bidder except denying the fact that they have not executed the guarantee agreement by defendant No.2 to 7. No oral evidence has been placed on behalf of the defendants and the learned counsel for the defendants would submit that he has no instructions from the defendants.

14. In view of the same, I do not see any infirmity committed by the learned trial Judge in decreeing the suit as against defendant Nos.1 to 7. I do not see any grounds to interfere with the judgment of the trial Court and the learned Judge rightly decreed the

suit. Hence, the issues are answered in favour of respondent No.1 and against the appellant, and the Appeal Suit is liable to be dismissed.

15. Accordingly, the Appeal Suit is dismissed confirming the judgment and decree passed by the trial Court in O.S.No.418 of 2006 on the file of the the learned First Additional Senior Civil Judge, Warangal. There shall be no order as to costs.

As a sequel, miscellaneous petitions, pending if any, shall stand closed.

Sd/- T. VIJAY KUMAR
DEPUTY REGISTRAR

//TRUE COPY//


SECTION OFFICER

To,

1. The I Additional Senior Civil Judge, Warangal.
2. One CC to Sri C M R Velu, Advocate [OPUC]
3. One CC to Sri K P Vijay Kumar, Advocate [OPUC]
4. Two CD Copies


ABK /Sa

HIGH COURT

DATED: 24/10/2025

JUDGMENT

AS.No.350 of 2011



DISMISSING THE APPEAL SUIT

⑥ MT
12/12/25