APHC010174132010

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3573]**
(Special Original Jurisdiction)

THURSDAY, THE 12th DAY OF NOVEMBER 2026

PRESENT
THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI

APPEAL SUIT NO: 37/2010

Between:

GANTA SIVA PRASAD, S/O. RADHA KRISHNA R/O. D.NO. 25-12-19/1, JOHN STREET, N.R.PET, ELURU, W.G.DISTRICT.

...APPELLANT

AND

1. M/S DIVYA CONSTRUCTIONS, REP. BY ITS PROPRIETOR SRI C.MADHUSUDHAN REDDY, HINDU, PLOT NO. 4-12, JAYAPRAKASH NARAYAN NAGAR COLONY, 1ST PHASE, MIYAPUR, HYDERABAD - 49.

2. SRI V SAI PRASAD, S/O. VENKATA RATNAM D.NO. 29-12-41, VENKATA RATNAM STREET, SURYARAOPET, VIJAYAWADA - 2. (2ND DEFENDANT IS SET EXPARTE IN THE LOWER COURT AND GIVEN

...RESPONDENT(S):

Appeal filed Under Section 96 of CPC before the High Court, appeal against the judgment and decree in O.S.No.472 of 2007 dated 04-08-2009 on the file of the Principal Senior Civil Judge, Vijayawada.

IA NO: 1 OF 2009(ASMP 12617 OF 2009

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased

IA NO: 1 OF 2010(ASMP 100 OF 2010

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be

pleased to permit the petitioner to produce the Xerox copy of the bill CC/III/486 dated 28-08-2006 as additional document in the above appeal.

IA NO: 2 OF 2010(ASMP 101 OF 2010

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to issue an order of attachment prohibiting the Divisional Finance Manager, Rail Vikas Bhavan, S.C.Railway, Pattabhipuram, Guntur from issuing the bill/cheques in favour of M/s. Divya Constructions, represented by its Proprietor, C.Madhusudhan Reddy for the work done by him, pending disposal of the above appeal.

Counsel for the Appellant:

K SITA RAM

Counsel for the Respondent(S):

RAVI KUMAR TOLETY

The Court made the following:

THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI

JUDGMENT:

1. This regular appeal under Section 96 Code of Civil Procedure is filed against the decree and judgment in O.S.No.472 of 2007 dated 04.08.2009 on the file of the Court of learned Principal Senior Civil Judge at Vijayawada[1].

2. The appellant herein is the plaintiff before Trial Court. The respondent Nos.1 and 2 are the defendants.

3. The case of the plaintiff/appellant in brief in the plaint was as follows:

a). The plaintiff was appointed as a Sub-Contactor by the defendant No.1, under Ex.A.1 minutes of understanding dated 10.11.2005, to perform the work of Railways for rock cutting from Kilometers 223/9 to 224/2 between Diguva Mitta and Chelama Stations, and agreed to pay Rs.75/- per Q.M. The defendant No.2, who is mediator between plaintiff and first defendant for entrustment of the said work, signed as a witness in Ex.A.1.

b). Then the plaintiff started the work. But, even after receipt of payment from Railways for the work done by the plaintiff, *vide* Bill

[1]hereinafter referred to as 'Trial Court'

C.C/111/486 dated 28.08.2026, defendant No.1 failed to make any payment to the plaintiff in-terms of Ex.A.1. Defendant No.1 due to a tune of Rs.7,00,000/- to plaintiff.

c). On that, plaintiff got issued Ex.A.2 legal notice to the defendant No.1, but the same was not claimed under Exs.A.3 and A.4 and kept quite.

4. Defendant No.2 remained exparte before the Trial Court.

5. Defendant No.1 filed written statement denying the case of the plaintiff, even about his appointment as a sub-contractor and work done by him, and *interalia* contended that there was no cause of action to file the suit and prayed to dismiss the suit.

6. Basing on the pleading of both parties, the Trial Court settled the following issues for Trial:

> "1.Whether the plaintiff is entitled to recover the suit amount? and
> 2.To what relief?"

7. In-order to substantiate the case of plaintiff, himself was examined as P.W.1 and also got examined P.W.2, exhibited Exs.A.1 to A.4. On behalf of defendant No.1, himself was examined as D.W.1, however, no documentary evidence was adduced.

8. After hearing both sides and on appreciation of material and evidence on record, the Trial Court dismissed the suit without costs.

9. Aggrieved thereby, the plaintiff has preferred the present appeal on the ground that the Trial Court failed to appreciate the material on record and erred in dismissing the suit, since the defendant is not denied the claim by virtue of Ex.A.1 understanding, thereby, prays to consider the present appeal.

10. Heard Sri K.Sita Ram, learned counsel for the appellant/plaintiff. None appeared for the respondent/defendant.

11. Learned counsel for the appellant/plaintiff submits that though it was categorical that plaintiff has done work under Ex.A.1 minutes of understanding, the Trial Court failed to consider the same and dismissed the suit claim without any appreciation of material on record.

12. Now the point that emerges for determination and needs consideration in this appeal is: “whether there are any valid grounds urged to meddle with the findings of the Trial Court”?

13. **POINT**:

On perusal of the material placed on record, though the defendant denied the execution of Ex.A.1, upon comparison of signature of D.W.1 to

that of signature on Ex.A.1, appreciation of testimony of P.W.1, the Trial Court rightly came to the conclusion that Ex.A.1 is proved and genuine document, also rightly held that there was an agreement between plaintiff and defendant No.1 by appointing the plaintiff as a sub-contractor.

14. In so far as the claim of Rs.7,00,000/- is concerned, except placing reliance on Ex.A.1, no evidence has been placed by the plaintiff to establish that there is a subsisting claim against the defendant No1. The Trial Court having recorded the findings that the plaintiff has not adduced any evidence nor any material placed on record regarding completion of work to the extent as agreed, to claim such amount, came to the conclusion that the plaintiff has failed to establish the claim against the defendant under Ex.A.1 understanding.

15. As the plaintiff relied upon Ex.A.1 understanding, which was said to be proved before the Trial Court, but the material placed on record, either oral or documentary, has not indicated as to whether the plaintiff had actually done the work as agreed under Ex.A.1, when the said work was done and how much was due. When such material is not available on record, the Trial Court has arrived just and reasonable conclusion that the

plaintiff failed to establish the claim against the defendant No.1 and rightly dismissed the suit.

16. Having regard to the above discussion, this Court is of the considered opinion that there are no valid grounds urged by the appellant/plaintiff to meddle with the findings of the Trial Court, thereby, the present appeal has no merits and liable for dismissal. Thus, this point is answered accordingly.

17. In the result, the appeal suit is dismissed by confirming the decree and judgment dated 04.08.2009 passed in O.S.No.472 of 2007 on the file of the Court of learned Principal Senior Civil Judge at Vijayawada. There shall be no order as to costs.

Interim orders granted earlier if any, stand vacated.

Miscellaneous petitions pending if any, stand closed.

JUSTICE BALAJI MEDAMALLI

Date: 12.11.2026
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THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI

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(J U D G M E N T)

DATE: 12.11.2026

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