APHC010447232009

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: 761/2009

Between:

1. M/S. VASAVI GENERAL TRADERS, UNDER THE INDIAN PARTNERSHIP, ACT WITH ITS R.O. AND BUSINESS AT KURNOOL, REPRESENTED BY ITS MANAGING PARTNER S.JAGANNATH GUPTHA, S/O.LATE SARABAIAH CHETTY, HINDU, AGED 55 YEARS,

...APPELLANT

AND

1. BALAJI AGENCIES REPRESENTED BY ITS PROPRIETOR, N.RADHAKRISHNA MURTHY, S/O.NARASAIAH SETTY, HINDU D.NO. 40-393-11, PARK ROAD, KURNOOL TOWN AND DISTRICT.

...RESPONDENT

Appeal filed Under Section 96 of C.P.C. before the High Court, appeal against the judgment and decree passed in O.S.No.335 of 2006 on the file of the Principal Senior Civil Judge, Kurnool, dated 13-08-2009.

Counsel for the Appellant:

1. K RATHANGA PANI REDDY

Counsel for the Respondent:

1. B NARASIMHA SARMA

The Court made the following:

THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI

APPEAL SUIT NO: 761/2009

JUDGMENT:

1. Aggrieved by the Decree and Judgment dated 13.08.2009 in O.S.No.335 of 2006 passed by the learned Principal Senior Civil Judge, Kurnool, (for short "the trial Court"), the appellant/plaintiff preferred this appeal questioning the correctness of the Decree and Judgment passed by the Trial Court.

2. For the sake of convenience, the parties will hereinafter be referred to as arrayed in the Original Suit.

3. The plaintiff is a registered partnership firm, and the defendant is a proprietary concern represented by its proprietor, N. Radha Krishna Murthy, both carrying on business at Kurnool. The defendant used to purchase goods on credit and borrow money from the plaintiff for business purposes. After adjusting the payments made by the defendant, the plaintiff claimed that a sum of Rs.3,69,344.31, including interest at 24% per annum, remained due as on 31.03.2005. The plaintiff relied on its ledger accounts, credit bills and the defendant's income-tax returns acknowledging the liability. Despite repeated demands, the defendant failed to repay the amount, resulting in the filing of the suit.

4. The brief averments in the written statement of the defendant, are that, defendant denied the allegations made in the plaint and disputed the amount claimed by the plaintiff. He contended that the plaintiff had failed to give credit to the payments made in cash, the goods returned and the articles supplied by him. He also denied admitting the alleged liability in his income-tax returns and contended that some of the claims were barred by limitation. Further, he disputed the correctness of the accounts and the interest claimed, stating that there was no agreement to pay interest on the running account. On these grounds, he sought dismissal of the suit.

5. Based on the above pleadings, the Trial Court framed the following issues, which are as under:-

1) *Whether the plaintiff firm is a Registered Partnership Firm?*
2) *Whether the defendant firm had been in the habit of receiving articles through credit bills and taking money by way of loan from the plaintiff?*
3) *Whether some of the suit entries are within the period of limitation?*
4) *Whether the plaintiff calculated the interest correctly?*
5) *Whether the plaintiff is entitled for the suit amount?*
6) *Whether the plaintiffs are entitled for declaration as prayed for?*
7) *To what relief?*

6. On behalf of the plaintiff, P.W.1 and P.W.2 were examined and got marked Exs.A1 to A29 and on behalf of the defendant, D.W.1 and D.W.2 were examined and got marked Ex.B1 and Exs.X1 to X19.

7. After considering the evidence on record, the trial Court dismissed the suit directing both the parties to pay their own costs.

8. Against the same, the appellant preferred the present Appeal Suit.

9. Heard Sri R.V.Shiva Teja Reddy, learned counsel representing Sri Rathanga Pani Reddy, learned counsel for the appellant/plaintiff and Sri B.Narasmha Sarma, learned counsel for the respondent/defendant.

10. Learned counsel for the appellant submits that the Court below grossly erred in dismissing the suit on surmises and conjectures without appreciating the oral and documentary evidence available on record. He further submits that the trial Court erred in appreciating the entire oral and documentary evidence and it is must to arrive at conclusion.

11. Learned counsel for the appellant further submits that the court below ought to have seen that admittedly all the entries in the accounts are in the course of the business between the plaintiff and defendant and is specifically pleaded and proved that certain articles were supplied, amounts were lent through cheque payment and in

the absence of disproving the accounts in the ledger book in the course of the business especially in the light of the amounts borrowed and received by way of cheque payment. He further submits that the Court below failed to appreciate the P.W.2 Income Tax Inspector's evidence coupled with Ex.X1 to X19 documentary evidence i.e., Income Tax returns filed by the defendant clinchingly proves and corroborates the plaintiff's oral and documentary evidence about the defendant's borrowing the amount and articles from the plaintiff which have clearly reflected in the I.T.returns. He further submits that the findings of the court below without considering the oral and documentary evidence by ignoring the fact that defendant utterly failed to adduce any evidence to disprove the case of the plaintiff and in the absence of impeaching or discrediting the plaintiff's oral and documentary evidence being corroborated by P.W.2 oral evidence and Ex.X1 to X19 documentary evidence court below ought to have decreed the suit. Hence, he prays to allow this Appeal Suit.

12. *Per Contra,* learned counsel for the respondent/defendant vehemently argued that the plaintiff had not filed the original ledger books to show that the defendant had dealings prior to 01.04.2001 and became due an amount of Rs.3,00,000/- and odd and he also argued mere entries in the books of account is not sufficient evidence to charge any person with liability. He also submits that plaintiff also

has not filed the original ledger books subsequent to the period for the years 2001-02, 2002-03, 2003-04 and 2004-05. He further submits that mere entries of money advance shown not sufficient to charge a person with liability and hence, he prays to dismiss this Appeal Suit.

13. After hearing both sides and perusing the material on record, this Court is of the view that the trial Court, upon proper appreciation of the evidence, recorded a finding that the plaintiff had failed to place relevant material on record to establish the debt. The plaintiff failed to produce the accounts relating to the transactions from the commencement of the business till 01.04.2001, which were stated to have been destroyed by white ants. No other evidence was placed on record to establish that the defendant was liable to pay the amount claimed. The plaintiff mainly relied upon the income-tax returns filed by the defendant for the assessment years 2001-02, 2002-03, 2003-04 and 2005-06, which were marked as Exs.X1 to X10 through P.W.2, the Income Tax Inspector. P.W.2 deposed that the defendant had filed the said returns and furnished details regarding the payments and outstanding amounts. Ex.X5, the income-tax return for the assessment year 2003-04, disclosed an amount of Rs.5,83,114/- due to the plaintiff towards the debt. Ex.X6 showed payment of Rs.84,000/- towards interest, while Ex.X7 reflected the debt of Rs.5,83,114/-. Ex.X9 showed an amount of

Rs.61,000/- due to the plaintiff, whereas Ex.X10 disclosed that the entire amount of Rs.6,42,114/- had been repaid to the plaintiff. The said returns pertain to the assessment year 2005-06. The evidence of P.W.2 and D.W.2 supports the defendant's contention that the amount had already been discharged. As the plaintiff failed to produce the books of accounts or ledgers to establish the existence of the debt and its non-payment, the plaintiff cannot seek recovery merely by relying upon the income-tax returns of the defendant without establishing the outstanding liability by independent evidence.

14. In the present case, the evidence of P.W.2, particularly Ex.X10, clearly indicates that the defendant had shown repayment of Rs.6,42,114/- in the income-tax returns for the assessment year 2005-06. The same is supported by the evidence of D.W.2, and there is no contrary evidence on record to establish the plaintiff's claim. Thus, the trial Court, upon proper appreciation of the evidence and material on record, rightly concluded that the plaintiff had failed to establish the suit claim and accordingly dismissed the suit.

15. For the foregoing reasons, this Court finds no merit in the appeal warranting interference with the findings recorded by the trial Court. The trial Court has considered all the relevant aspects, and the plaintiff had failed to establish, by placing cogent evidence on record,

the existence of any recoverable debt due from the defendant. Accordingly, the Appeal Suit is dismissed. There shall be no order as to costs.

Consequently, miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE BALAJI MEDAMALLI

Dt. 12.11.2026
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THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI

APPEAL SUIT NO.761 of 2009

DATE: 12.11.2026

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