APHC010559832009

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: 619/2009

Between:

1. PORUBOINA YEDUKONDALA, S/O. BHAVANNARAYANA, HINDU CONTRACTOR R/O. PONNUR POST AND MANDAL, GUNTUR DISTRICT.

...APPELLANT

AND

1. THE COMMISSIONER MUNICIPAL COUNCIL, PONNUR MUNICIPALITY, PONNUR.
2. THE STATE OF ANDHRA PRADESH, REP. BY TIS PRINCIPAL SECRETARY TO MUNICIPAL ADMINISTRATION, SECRETARIAT, SAIFABAD, HYDERABAD.

...RESPONDENT(S):

Appeal filed Under Section 96 of CPC before the High Court , to allow the appeal by setting aside the decree and judgment dated 28-08-2008 in O.S.No.7 of 2004 on the file of the Court of 1st Additional District Judge, Guntur and decree the suit as prayed for with costs throughout and pass such other relief or reliefs as may be deemed fit and proper in the circumstances of this case.

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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 condone the delay of 256 days in representing the appeal in A.S.Sr.No.13556 of 2008 in the interest of justice and pass such other order or

orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Appellant:

1. NIMMAGADDA SATYANARAYANA

Counsel for the Respondent(S):

1. SIREESHA RANI VALLABHANENI

The Court made the following:

THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI

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JUDGMENT:

1. Aggrieved by the Decree and Judgment dated 28.08.2008 in O.S.No.7 of 2004 passed by the learned I Additional District Judge, Guntur, (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, a Class-I civil contractor at Ponnur, participated in the tender called by the 1st defendant for construction of a shopping complex-cum-auditorium under the Integrated Development of Small and Medium Towns Scheme. His tender was accepted, and a work order was issued on 12.02.1999 for an estimated cost of Rs.37.72/- lakhs, followed by an agreement. The plaintiff completed the work as per the contract and deposited Rs.94,500/-, refundable with interest. However, the defendants paid only Rs.1,73,776.74/- towards the work without interest or compensation for the delay. Despite issuing a legal notice under Section 80 CPC on 25.08.2003, demanding Rs.10,00,000/- as damages, the defendants failed to respond or pay the amount. Hence, the plaintiff filed the suit.

4. The 2nd defendant remained ex parte, while the 1st defendant filed a written statement denying the plaintiff's claim. However, the 1st defendant admitted that the plaintiff's tender was accepted for Rs.34,15,132.29/- at 9.26% below the estimated rates. It was contended that the plaintiff delayed in entering into the agreement by 12 days and that, due to a change in Government policy, the release of funds was delayed. Subsequently, pursuant to G.O.Rt.No.1485, dated 10.12.2002, the defendants paid Rs.6,00,000/- in March 2003 and the balance of Rs.1,72,125/- in January 2004, which the plaintiff accepted on 28.01.2004. The 1st defendant further contended that the earnest money deposit of Rs.94,500/- was refundable only upon a written request, which the plaintiff had not submitted. It was also contended that the excess amount of Rs.1,72,125/- was paid under the revised administrative sanction vide C.R.No.34, dated 21.05.2003. On these grounds, the 1st defendant 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 is entitled for the suit amount or any part thereof?*
2) *Whether the plaintiff is entitled for the interest as claimed?*
3) *To what relief?*

6. On behalf of the plaintiff, two witnesses were examined and got marked Exs.A1 to A6, during the evidence of these witnesses Exs.X-1 to X-6 were marked. On behalf of the defendants, The Commissioner, Ponnur Municipality was examined, but, no documents were got marked.

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 P.Rishyendra Sai, learned counsel representing Sri Nmmagadda Satyanarayana, learned counsel for the appellant/plaintiff and Sri Y.Rajesh Reddy, learned counsel representing Smt.Sireesha Rani, learned counsel for the respondent/defendant.

10. Learned counsel for the appellant contended that the trial Court erred in dismissing the suit despite the appellant having completed the contract work worth Rs.37.72/- lakhs within the stipulated time. It was submitted that, due to the delay in payments by the 1st respondent, the appellant was compelled to borrow substantial amounts from Andhra Bank, Ponnur, through SOD Account No.15102 and from private individuals by executing promissory notes, thereby incurring heavy interest.

11. Learned counsel further contended that the trial Court failed to properly appreciate Exs.A1 to A6 and Exs.X1 to X6, particularly Ex.A4, which disclosed that an amount of Rs.14,00,000/- remained due as on 16.01.2001. It was also argued that the evidence of P.Ws.2 and 3, the promissory notes marked as Exs.X1 and X2, and the bank statement marked as Ex.X3 established the borrowings made by the appellant. The trial Court also failed to consider the admission of the 1st respondent regarding the delay in payment, the absence of a reply to the legal notice dated 25.08.2003 and the failure of the 2nd respondent to contest the proceedings. The counsel therefore submitted that the trial Court had erroneously appreciated the evidence and sought to set aside the judgment and decree under appeal and prays to allow the Appeal Suit.

12. Learned counsel for the respondents contended that the plaintiff had submitted his tender at 9.26% below the estimated rates for Rs.34,15,132.29/- and had entered into the agreement with a delay of 12 days. It was submitted that, due to a change in Government policy, the respondents were initially unable to release the funds. However, pursuant to G.O.Rt.No.1485, dated 10.12.2002, an amount of Rs.6,00,000/- was paid in March 2003 and the balance of Rs.1,72,125/- was paid in January 2004, which was accepted by the plaintiff on 28.01.2004. Learned counsel further contended that the

earnest money deposit of Rs.94,500/- was refundable only upon submission of a written request, which the plaintiff had failed to make. It was also submitted that the excess amount of Rs.1,72,125/- was paid pursuant to the revised administrative sanction vide C.R.No.34, dated 21.05.2003. Accordingly, the respondents contended that the plaintiff was not entitled to the relief claimed and sought dismissal of the appeal and hence, he prays to dismiss this Appeal Suit.

13. Upon hearing both sides and perusing the material on record, the appellant failed to produce the work order or agreement to establish the terms and conditions of the contract between the parties. Further, the agreement did not contain any stipulation regarding payment of interest or damages payable by the 1st respondent. Though the plaintiff claimed to have submitted a claim for damages along with calculations, no such claim was placed on record. Nor he produced any evidence regarding payment receipts subsequent to the filing of the suit. The plaintiff also admitted that he had not issued any written requisition to the defendant seeking the return of the E.M.D. Thus, the plaintiff failed to establish that he had suffered damages, that the 1st defendant was liable to compensate him, or that he had demanded such damages before filing the suit. Accordingly, the trial Court dismissed the suit on the ground that the

plaintiff had failed to establish his legitimate claim for damages. However, learned counsel for the appellant sought to rely on the evidence of D.W.1, contending that D.W.1 had admitted the delay in making payments and further submitted that the delay in completion and the penal provisions were also admitted by the plaintiff. But the said admission regarding delay in making payment by itself will not entitle the appellant to get damages unless the same is substantiated by placing the relevant agreement which makes him entitled to claim such damages.

14. It is settled law that a plaintiff must establish his claim through his own evidence and cannot rely upon the weaknesses of the defendant. In the present case, the appellant failed to produce the work order or agreement, establish the contractual terms entitling him to damages, produce evidence of the alleged damages, or prove that such damages had been demanded from the defendant. Therefore, the trial Court assigned sound reasons for dismissing the suit.

15. In view of the above, this Court finds no grounds to interfere with the findings of the trial Court, which has duly analysed the entire evidence on record and recorded findings supported by cogent reasons.

16. Accordingly, this Court finds no merit in the Appeal Suit, and the same 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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DATE: 12.11.2026

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