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IN THE COURT OF THE III ADDITIONAL JUNIOR CIVIL JUDGE AT VISAKHAPATNAM

Present : Sri. M.Srinivasa Rao,
III Additional Junior Civil Judge,
Visakhapatnam.

O.S.1941/2022

Monday, this the 10th day of April, 2023

Between :

Pillala Venkata Ramana Rao, S/o. Late Prasada Rao, aged 60 years, Residing at Door No.7-1-1/A, Flat No.B-2, Baba Towers, Opposite to A.U. Out gate down, Chinna Waltair, Visakhapatnam-530017, Aadhar No.881779092089, Mobile No.9110730494.

...Plaintiff

And :

1. Chelliboina Varaha Narasimha Prasad, S/o.Ch.Polarao, Hindu, aged 55 years, Working as Record Assistant, Material Section, School of Distance Education, Andhra University, Visakhapatnam, Residing at Door No.7-13-11, Opp. A.U. Out gate down, Visakhapatnam-530017, Aadhar No.551522733497, Mobile No.9640119092.

2. Chelliboina Suseela, W/o/.Ch.V.N.Prasad, Hindu, aged 52 years, Residing at Door No.7-13-11, Opp. A.U. Out gate down, Visakhapatnam-530017, Aadhar No.694131997439, Mobile No.9640119092.

...Defendants

This suit is coming on 29-03-2023 for final hearing before me in the presence of Sri. D.Ravindranath, K.Srinivasa Rao and Sri. M.V.S.Narayana, Advocates for Plaintiff and the Defendants No.1 and 2 are remained exparte and the matter having stood over for consideration till this day, this court delivered the following :

J U D G M E N T

1. This suit is filed by the plaintiff against the defendants No.1 and 2 for recovery of Rs.7,48,333/- (Rupees Seven Lakhs Forty Eight Thousand Three Hundred and Thirty Three only) with interest at 24% p.a. from the date of filing of suit till the date of realization and for costs of the suit.

2. The brief facts of the plaint in brief are as follows :

The defendants No.1 and 2 jointly borrowed an amount of Rs.5,00,000/- (Rupees Five Lakhs only) from the plaintiff on 10-11-2020 for the purpose of their family necessities and to discharge sundry debts, they jointly executed a demand promissory note in favour of plaintiff, agreed to repay the same with interest at 24%

p.a to the plaintiff or to his order on demand, inspite of repeated demands made by the plaintiff, the defendants No.1 and 2 did not repay any amount either principal or interest and kept postponing the same on one pretext or the other. Thereafter, the plaintiff issued a Legal notice on 16-11-2022, demanding to repay the amount with interest and the same was acknowledged by the defendant No.2 on 17-11-2022, but the defendants No.1 and 2 did not respond so far. The defendants No.1 and 2 are neither agriculturists nor artisans of tools and they are not entitled for any benefits under Debt Relief Laws including the Act IV of 1938 and Act VII of 1977. Hence, this suit.

3. Summons to defendants No.1 and 2 were served personally, but the defendants No.1 and 2 are called absent, no representation. As such, the defendants No.1 and 2 are set exparte.

4. To substantiate his claim, the plaintiff examined himself as P.W.1 and Exs.A1 to A4 are marked.

5. Now, the point for consideration is :

Whether the plaintiff is entitled to suit claim as prayed for or not ?

6. **POINT :**

The plaintiff to prove the suit transaction, examined himself as P.W.1 and reiterated the contents of plaint in his examination-in-chief, and marked the original promissory note, Dt.10-11-2020 jointly executed by the defendants No.1 and 2 in favour of plaintiff as Ex.A1. Thereafter, the plaintiff orally demanded the defendants No.1 and 2 and issuance of legal notice, Dt.16-11-2022 along with two postal receipts of Defendants No.1 and 2 i.e., Ex.A2 and the same was served on the defendants No.1 and 2 i.e., Ex.A3 and A4, thereafter, the defendants No.1 and 2 did not choose to give reply or pay the amount.

7. As observed from the evidence available on record, the plaintiff by examining himself as P.W.1, and marked Ex.A1 initially proved that the defendants No.1 and 2 jointly borrowed a sum of Rs.5,00,000/- (Rupees Five Lakhs only) from the plaintiff and jointly executed Ex.A1 in favour of plaintiff. Thereafter, the defendants No.1 and

2 did not make any payment towards discharge of the suit debt, inspite of repeated demands and issuance of legal notice by the plaintiff i.e., Ex.A2, and the same was served on the defendants No.1 and 2 i.e., Ex.A3 and A4, but the defendants No.1 and 2 did not make any payment either towards the discharge of the principal or interest. Further, the defendants No.1 and 2 are remained exparte, hence, the version of the plaintiff remained unchallenged, undisputed and uncontested. Thus, there is nothing before this court to disbelieve the version of the plaintiff. Hence, the plaintiff is entitled for decree as prayed.

8. In the result, the suit is decreed with costs in favour of plaintiff against the defendants No.1 and 2 for a sum of Rs.7,48,333/- (Rupees Seven Lakhs Forty Eight Thousand Three Hundred and Thirty Three only) with interest at 12% p.a. from the date of filing of the suit till the date of decree and thereafter at 6% p.a. till its realization on the principal sum of Rs.5,00,000/- (Rupees Five Lakhs only).

Dictated to Typist directly on system, corrected and pronounced by me in the open Court, this the 10th day of April, 2023.

III Additional Junior Civil Judge,
Visakhapatnam.

APPENDIX OF EVIDENCE

No. of witnesses examined

For Plaintiff :

For Defendants : Nil

P.W.1 : P.Venkata Ramana (***Plaintiff***)

No. of Exhibits marked

For Plaintiff :

For Defendants : Nil

Ex.A1 : Original Promissory Note, Dt.10-11-2020.

Ex.A2 : Office copy of Legal Notice, Dt.16-11-2022 along with two postal receipts of Defendants No.1 and 2.

Ex.A3 : Photocopy of Track Consignment of service of notice to defendant No.1, Dt.17-11-2022.

Ex.A4 : Original 4acknowledgment of defendant No.2, Dt.17-11-2022.

III AJCJ/VSP

Date of Presentation : 12-12-2022

Date of Filing : 21-12-2022

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Value of the suit for the purpose of court fee and jurisdiction is Rs.7,48,333/- and Court Fee of Rs.9,926/- is paid under section 20 r/w Article I (b & c) of Schedule I of A.P. CF and SV Act, 1956.

This suit is coming on 29-03-2023 for final hearing before me in the presence of Sri. D.Ravindranath, K.Srinivasa Rao and Sri. M.V.S.Narayana, Advocates for Plaintiff and the Defendants No.1 and 2 are remained exparte and the matter having stood over for consideration till this day, this Court doth order and ;

DECREE

1. that the defendants No.1 and 2 do pay to the plaintiff a sum of Rs.7,48,333/- (Rupees Seven Lakhs Forty Eight Thousand Three Hundred and Thirty Three only) with interest at 12% p.a. from the date of filing of the suit till the date of decree and thereafter at 6% p.a. till its realization on the principal sum of Rs.5,00,000/- (Rupees Five Lakhs only) and ;

2. that the defendants No.1 and 2 do also pay to the plaintiff a sum of Rs.20,903/- (Rupees Twenty Thousand Nine Hundred and Three only) towards the costs of the suit.

Given under my hand and the seal of this court, this the 10th day of April, 2023.

III Additional Junior Civil Judge,
Visakhapatnam.

MEMORANDUM OF COSTS

For Plaintiff :

Vakalat	:	2-00
Stamp on Plaint	:	8,826-00
Advocate Fee	:	12,075-00

Costs allowed	:	20,903-00

For Defendants :

No cost memo is filed

III AJCJ/VSP