

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

SECOND APPEAL No.92 of 2019

JUDGMENT:

The plaintiff is the appellant in the present Second Appeal filed against the Judgment dated 29.11.2017 in A.S.No.317 of 2015 on the file of the III Additional District Judge, Guntur.

2. The appellant herein had filed O.S.No.734 of 2011 on the file of IV Additional Senior Civil Judge, Guntur for recovery of an amount of Rs.46,000/- along with interest at the rate of 24% per annum with compound interest on the basis of a promissory note dated 16.02.2003 said to have been executed by the defendant/respondent herein. It was the case of the appellant that the respondent had taken a sum of Rs.46,000/- for the marriage expenses of his daughter and had made a part payment of Rs.1,000/- each on 13.02.2006 and 10.02.2009, after which he refused to make any further payment forcing the appellant to approach Court for recovery.

3. The respondent filed a written statement claiming that the suit was barred by limitation as the respondent had not signed any payment endorsements. The respondent also took plea that he had never signed any payment endorsements and the scribe of the said endorsements and attestor of the suit pronote were close friends and followers of the husband of the plaintiff, who colluded with her to create the payment

endorsements. The defendant also took other pleas which may not be relevant to the facts of the case.

4. In the trial, plaintiff examined herself as P.W.1 and marked Exs.A1 to A5, the defendant examined himself as D.W.1 and marked Exs.B1 and B2. After hearing arguments of both sides the trial Court was pleased to dismiss the suit on 30.10.2015 on the ground that the appellant herein was unable to prove that the payment endorsements had been made by the respondent herein.

5. The trial Court arrived at this conclusion on the ground that neither the attesor nor scribe of the pronote and the payment endorsements were examined and further no attempt was made to send the disputed signatures to the hand writing expert inspite of the defence of the defendant that the signatures on the payment endorsements marked as Exs.A2 and A3 are not his signatures.

6. Aggrieved by the said Judgment and Decree, the appellant had filed A.S.No.317 of 2015 in the Court of III Additional District Judge, Guntur. The Appellate Court after hearing both sides was pleased to dismiss the appeal, confirming the decree and judgment of the trial Court. The Appellate Court also held that the appellant was not able to prove that the payment endorsements are said to have been made by the respondent on 13.02.2006 and 10.02.2009. The fact that the appellant did not take any steps to send the suit promissory note to the hand writing expert for the purpose of

comparing the disputed signatures of the respondent was also held against the appellant herein.

7. Sri G.L.Narasimha Rao, learned counsel for the appellant submits that the appellant was unable to take necessary steps to adduce evidence from the scribe and attestor of the suit promissory note and the endorsements as she was unaware of the steps needed to be taken for that purpose.

8. Sri G.L.Narasimha Rao further submits that steps could not be taken to send the disputed signatures for obtaining the opinion of an expert, as the appellant not being a person who was conversant with law and the procedure, had been under the impression that the signatures could be looked at by the learned Judge and decision taken thereof.

9. In these circumstances, Sri G.L.Narasimha Rao submits that it would be necessary to remand the matter to the lower Court to enable the appellant to take necessary step to rectify the defects pointed out by the trial Court and the Appellate Court.

10. I am afraid that I am unable to accede to such a request as no such request was made even before the Appellate Court and in any event the appellant, who was represented by a counsel in the earlier rounds of litigation, cannot take the plea that appropriate steps were not taken on account of her lack of knowledge of law.

11. As can be seen from the Judgments of the trial Court and the Appellate Court, no question of law arise in this case. Further, the appellant could not make out any case for any interference on findings of fact by the trial Court and the Appellate Court.

12. In the said circumstances, there is no question of law much less a substantial question of law which requires a decision in the appeal.

13. Accordingly, the Second Appeal is dismissed. There shall be no order as to costs.

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

R. RAGHUNANDAN RAO, J.

06-11-2020.

sdp.

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