

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**MONDAY, THE NINTH DAY OF JUNE
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE SRI JUSTICE LAXMI NARAYANA ALISHETTY

CIVIL REVISION PETITION NO: 3448 OF 2023

Petition under Article 227 of the Constitution of India, against the order dated 14-09-2022 passed in I.A.No. 416 of 2023 in O.S.No. 309 of 2022 on the file of the Hon'ble Principal District Judge at Warangal.

Between:

Menthula Shashidhar, S/o. Satyanarayana, Age. 43 Years, Occ. Business,
R/o. Flat No. A1, Aparajitha Enclave, Balasamudram, Hanumakonda.

...Petitioner

AND

Cherukuri Padma Rao, S/o. Late Ramakotaiah, Age. 62 Years, Occ.
Proprietor of Poornachand Traders, R/o. H. No. 16-4-1122, Shivanagar,
Warangal.

...Respondent

IA NO: 1 OF 2023

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 stay of all further proceedings in O.S. No. 309 of 2022, on the file of Hon'ble Principal District Judge at Warangal.

Counsel for the Petitioners: SRI K VENUMADHAV

Counsel for the Respondent: SRI M VIVEKANANDA REDDY

The Court made the following: ORDER

(9)

HON'BLE SRI JUSTICE LAXMI NARAYANA ALISHETTY

CIVIL REVISION PETITION No.3448 OF 2023

ORDER:

This Revision Petition is filed directed against the order dated 14.09.2022 passed in I.A.No.416 of 2023 in OS.No.309 of 2022 on the file of Principal District Judge, Warangal.

2. Heard Sri K.Venu Madhav, learned counsel for revision petitioner, and Sri M.Vivekananda Reddy, learned counsel for the respondent.

3. The petitioner is defendant and the respondent is plaintiff in the suit. For convenience, the parties will be hereinafter referred to as arrayed in the suit.

4. In nut-shell, the facts of the case, required for disposal of the present Revision Petition, are that plaintiff filed the aforementioned suit against the defendant for recovery of money on the basis of two separate Ankadas/receipts, dated 15.12.2019; that the defendant entered appearance and filed an application vide I.A.No.416 of 2023 under Order VII Rule 11 CPC to reject the plaint.

5. In the affidavit filed in support of the application, the defendant averred that the plaintiff filed the suit alleging that the

defendant borrowed a sum of Rs.85 lakhs on 15.12.2019 and executed two separate Ankadas/receipts for a sum of Rs.45 lakhs and Rs.40 lakhs respectively, agreeing to repay the same with interest @ 2% per month; that a legal notice was issued on behalf of the plaintiff to the defendant on 21.10.2022, for which reply was got issued by the defendant through his counsel on 25.10.2022 denying the debt as well as the relationship between them. However, surprisingly, the suit was filed by the plaintiff on 16.12.2022. The defendant further averred that the plaintiff failed to disclose the mode of payment of suit amount and further, there is no cause of action for filing the suit and therefore, the suit is liable to be rejected.

6. A counter was filed on behalf of plaintiff denying the averments made in the application and further, contended that the suit is within the period of limitation with specified cause of action and as such, the application filed by the defendant is vague and not specific, and hence, the plaint cannot be rejected at any stretch of imagination. It was further specifically averred that the allegation of the defendant that no cause of action had arisen for filing the suit cannot be decided summarily and that it is well settled law that

question of law and facts cannot be read in isolation and a party cannot be permitted to canvas beyond his/her pleadings to their convenience and as such, the application is untenable and accordingly, prayed to dismiss the application.

7. The trial Court vide impugned order dated 14.09.2022 dismissed the application with an observation that the plaintiff disclosed the cause of action for filing the suit, therefore, the plaint need not be rejected. The trial Court further observed that Ankadas were allegedly executed by the defendant on 15.12.2019 and plaint was presented on 16.12.2022 and as such, the plaint is within the limitation period of three years. Aggrieved by the said impugned order, the present Revision Petition is filed.

8. Learned counsel for petitioner/defendant submitted that in the application, the defendant has taken a specific stand that the suit is barred by limitation and no cause of action had arisen for filing the suit. He further submitted that the alleged amounts were given by the plaintiff to the defendant on 15.12.2019 and Ankadas were allegedly executed on 15.12.2019, however, the suit was filed on 16.12.2022, which is clearly barred by limitation, since the time limit for filing a suit for recovery of money based on promissory

note, in the present case Ankadas, is only three years and admittedly, the suit is filed after expiry of three years and two days, however, the trial Court failed to appreciate the said fact and came to an erroneous conclusion that the suit is filed within the period of limitation of three years, which is contrary to Limitation Act and therefore, the impugned order warrants interference by this Court. Learned counsel finally prayed to allow this Revision Petition and consequently, to reject the plaint.

9. Learned counsel for the respondent/plaintiff submitted that the application filed by the defendant is vague since the defendant except alleging that no cause of action had arisen for filing the suit, has not raised any other specific ground including the aspect of limitation. He further submitted that the trial Court has discussed the point of limitation though there is no specific plea raised by the defendant in the application and answered the same in favour of plaintiff. He further submitted that the trial Court, on due appreciation of the contentions raised in the application filed by the defendant as well as in the counter filed on behalf of the plaintiff, has rightly dismissed the application and as such, no grounds are made out to interfere with the well-reasoned order of the trial Court

and hence, this Revision Petition, being devoid of merits, is liable to be dismissed.

10. Learned counsel for the petitioner/defendant contended that the defendant has not raised specific ground in the application that the suit is barred by limitation. As rightly contended by the learned counsel for the petitioner, a perusal of the application would disclose that no such ground/plea has been raised by the defendant in the application except taking the ground of lack of cause of action for filing the suit, however, the trial Court has gone into the aspect of limitation and came to an erroneous conclusion that the suit was filed within the limitation period of three years.

11. It is relevant to refer to the ratio laid down by the Hon'ble Supreme Court in *Saketh India Limited Vs. India Securities Limited*¹. In the said case, notice of bouncing of cheque was served on the drawer on 29.09.1995 and the period of 15 days provided under Section 138 of the Negotiable Instruments Act expired on 14.10.1995, however, the complaint was filed on 15.11.1995. In the said case, the Hon'ble Supreme Court held that the first day of the cause of action for making complaint 15.10.1995 was held to be excluded and if so, computed after excluding that day, the

¹ (1999) 3 SCC 1

complaint filed was held to be within time. Similar issue fell for consideration before a learned single Judge of the erstwhile High Court of Andhra Pradesh in *Venkayala Bhadram Vs. Noni Venkata Rao*², wherein the suit filed on 02.11.1971, based on promissory note executed on 02.11.1968, was held as barred by limitation by the trial Court; that on Revision being filed, the learned single Judge has referred to Article 36 of the Limitation Act and observed that the said Section does not specify as to how the period of limitation has to be computed and that it is only Section 12 of the Limitation Act that prescribes the mode of computation of period of limitation and by observing thus and following the ratio laid down by the Hon'ble Supreme Court in *Saketh India Limited's* case (cited supra), held that the date on which cause of action arisen has to be excluded.

12. In the present case, admittedly, the suit was filed on 16.12.2022, basing on Ankadas/receipts dated 15.12.2019 for recovery of money. It is relevant to refer to Article 35 of Schedule to the Limitation Act, as per which, the time limit for filing a suit for recovery of money basing on promissory note is three years from the date of execution of promissory note. While computing

² 2001 SCC Online AP 979

the period of limitation, as per Section 12 (1) of the Limitation Act, for any suit, appeal or application, the day from which such period is to be reckoned shall be excluded.

13. In the light of the aforesaid provisions of the Limitation Act and further, as held by the Hon'ble Apex Court in *Saketh India Limited*'s case (cited supra), it is settled principle of law that the date of execution of promissory note has to be excluded while computing the period of limitation and by calculating thus, in the present case, the limitation commenced from 16.12.2019 and expired on 15.12.2022, however, the suit was filed on 16.12.2022. Thus, it is evident that even if we exclude the date of execution of Ankadas, still the plaint was filed beyond three years, which is clearly barred by limitation. Further, though no specific plea has been raised by the defendant in the application with regard to bar of limitation, in the considered opinion of this Court, no purpose would be served in continuing the suit and relegating the parties to rigorous trial in view of conclusion of the Court that the suit is barred by limitation. Therefore, this Revision Petition deserves to be allowed.

13. In the result, this Civil Revision Petition is allowed, setting aside the order dated 14.09.2022 passed in I.A.No.416 of 2023 in OS.No.309 of 2022 on the file of Principal District Judge, Warangal and consequently, the said I.A. stands allowed.

14. Miscellaneous petitions pending, if any, shall stand closed.

No costs.

Sd/- M. NAGAMANI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

**One Fair Copy to the Hon'ble Sri Justice Laxmi Narayana Alishetty
(For His Lordships kind Perusal)**

To,

1. The Principal District Judge, Warangal
2. 11 LR Copies
3. The Under Secretary, Union of India, Ministry of Law, Justice and Company Affairs, New Delhi
4. The Secretary, Advocates Association Library, High Court for the State of Telangana, High Court Buildings at Hyderabad
5. One CC to SRI K VENUMADHAV, Advocate [OPUC]
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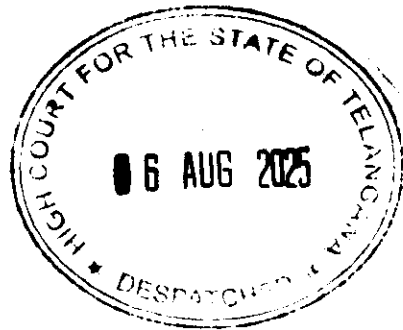

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HIGH COURT

DATED: 09/06/2025

ORDER

CRP.No.3448 of 2023



ALLOWING THE CRP WITHOUT COSTS

(21) MT
6/8/25