NC: 2026:KHC:11158-DB
R.F.A. No.382/2019

HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

REGULAR FIRST APPEAL NO.382/2019 (MON)

BETWEEN:

SRI. ANNAPURNESWARI GINNING
AND PRESSING INDUSTRIES
REPRESENTED BY ITS PARTNERS.

a. SRI. VISHWANATH B. PATIL
S/O BABU RAO PATIL
AGED ABOUT 55 YEARS.

b. SMT. AMRUTA V. PATIL
W/O SRI. VISHWANATH B. PATIL
AGED ABOUT 51 YEARS.

BOTH ARE R/O NO.110/5F
RMC LINK ROAD, DAVANAGERE -577 001.

...APPELLANTS

(BY SRI. R. GOPAL, ADV.,)

AND:

M/S. UDAYA KRISHNA MILLS
A PARTNERSHIP FIRM
REPRESENTED BY ITS PARTNERS.

a. SRI. A. SUBRAMANIAN
S/O S. ARMUGA GOUNDER

AGED ABOUT 53 YEARS.

b. SMT. S. MEENA
AGED MAJOR.

BOTH R/O. 7-A, EAST STREET
KARUGAM PALAYAM
ICHIPATTY POST, VIA SOMANUR -641668
TIRUPUR DISTRICT, TAMIL NADU.

...RESPONDENTS

(BY SRI. RAM SINGH K, ADV., FOR R1(a & b))

THIS RFA IS FILED UNDER SECTION 96 R/W ORDER 41 RULE 1 OF CPC, PRAYING TO ALLOW THE APPEAL AND SET ASIDE THE IMPUGNED ORDER AND DECREE DATED 22.11.2018 PASSED BY THE COURT OF II ADDL. SENIOR CIVIL JUDGE AND JMFC AT DAVANAGERE IN O.S.NO.198/2017 AND CONSEQUENTLY DISMISS I.A.NO.2 AND REMIT THE SUIT FOR DISPOSAL AFRESH IN ACCORDANCE WITH LAW, IN THE ENDS OF JUSTICE AND EQUITY.

THIS APPEAL HAVING BEEN HEARD AND RESERVED ON 13.02.2026, COMING ON FOR PRONOUNCEMENT OF JUDGMENT, THIS DAY ***VIJAYKUMAR A. PATIL J.,*** DELIVERED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL)

This appeal is filed by the appellants under Section 96 read with Order XLI Rule 1 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') challenging the order dated 22.11.2018 passed on I.A.No.II in O.S.No.198/2017 by the II Additional Senior Civil Judge and JMFC, Davanagere (hereinafter referred to as ***'the trial Court'***).

2. The brief facts leading to the filing of this appeal are that the appellants filed suit for recovery of Rs.26,07,956/- together with current and future interest at the rate of 15% p.a. on Rs.22,54,160/- from the date of suit till realization. In the said suit, the respondents-defendants filed an application - I.A.No.II under Order VII Rule 11(d) read with Section 151 of CPC for rejection of plaint, which came to be allowed under the impugned order. Being aggrieved, the plaintiffs are in appeal.

3. Sri.R.Gopal, learned counsel appearing for the appellants-plaintiffs submits that the trial Court committed a grave error in rejecting the plaint by considering the averments made in the written statement. It is submitted that the plaint was rejected for non production of prior permission from the market committee as required under Section 84(4) of the Karnataka Agricultural Produce Marketing (Regulation and Development) Act, 1966, (for short, ***'APMC Act'***), which is incorrect. It is further submitted that the trial Court ought to have framed an issue and allowed the plaintiffs to adduce evidence and meanwhile they would have produced the permission from the marketing committee. It is also submitted that the issue involved is squarely covered by the decision of this Court in the case of ***Mahantayya Basalingayya Koppal vs. Sri.Kottureswar & Co.***[1] and submits that the production of permission from the marketing committee is a curable defect and now the appellants have produced the same

[1] 1972 (1) KAR.LJ 555

with the appeal and the suit being within the period of limitation, the production of certificate is also within the limitation period, hence, appeal is required to be allowed by remanding the matter back to the trial Court to consider the suit on merits. It is also submitted that the appeal is a continuation of suit, hence, the same principle applies to appeals also and the Court is also required to take into account subsequent events and in support of said preposition, he placed reliance on the decision of the Hon'ble Supreme Court in the case of ***Pasupuleti Venkateswarlu v. The Motor and General Traders***[2] and ***Inderchand Jain (Dead) Through LRs vs. Motilal (Dead) Through LRs***[3]. Hence, he seeks to allow the appeal.

4. There is no representation on behalf of respondents on the previous date of hearing and to provide one opportunity, the matter was ordered to be re-

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[2] AIR 1975 SC 1409

[3] (2009) 14 SCC 663

listed. However, even today there is no representation for the respondents.

5. We have heard the arguments advanced by the learned counsel appearing for the appellants and perused the material available on record. We have given our anxious consideration to the submissions advanced.

6. The point that arises for our consideration in this appeal is:

> ***"Whether the impugned judgment of the trial Court calls for any interference?"***

7. The above point is answered in the affirmative for the following reasons.

8. The appellants filed O.S.No.198/2017 for recovery of Rs.26,07,956/- together with current and future interest at the rate of 15% p.a. on Rs.22,54,160/- from the date of suit till realization. In the said suit, the defendants filed an application - I.A.No.II under Order VII Rule 11(d) of CPC for rejection of plaint, which came to

allowed under the impugned judgment. The trial Court rejected the plaint on the ground that the appellants-plaintiffs being the APMC licencing merchant, having Licence No.KT41715, have not obtained prior sanction from the marketing committee of the said APMC prior to filing of the suit as required under Section 84(4) of the APMC Act. Hence, the suit is barred under Section 84(4) of the APMC Act. A perusal of the plaint averments does not indicate anything with regard to obtaining or non obtaining of permission, however, the trial Court considered the application of the respondent-defendant filed for rejection of plaint and by considering the law, allowed the application by rejecting the plaint.

9. The law mandates that no suit shall to be 'entertained' by any Court in respect of disputes referred to in sub section 1 of Section 84 of the APMC Act without previous sanction of the marketing committee. The plaint averments is silent with regard to obtaining or not obtaining of the sanction of the marketing committee and

the trial Court based on the averments made in the application and the provision of APMC Act, rejected the plaint. In our considered view, the trial Court ought to have considered the law laid down by this Court in the case ***Mahantayya Basalingayya Koppal*** referred supra. The perusal of the said judgment clearly indicates that the suit can be entertained if the permission is obtained and produced during the pendency of the said suit and the production of such permission/sanction by the marketing committee should be within the time of limitation as per Article 15(2) of Limitation Act, 1963. Learned counsel for the appellants have contended that the appeal is nothing but an extension of suit, hence, the principles laid down in the said case are squarely applicable to the case on hand.

10. It would be useful to refer to the decision of the Hon'ble Supreme Court in the case of ***Nusli Neville Wadia v. Ivory Properties***[4]**,** wherein it was held as under:

[4] (2020) 6 SCC 557

35. *The expression "entertain" means to admit a thing for consideration. When a suit or proceeding is not thrown out in limine, but the court receives it for consideration for disposal under the law, it must be regarded as entertaining the suit or proceeding. It is inconsequential what is the final decision. The word "entertain" has been held to mean to admit for consideration, as observed by this Court in Lakshmi Rattan Engg. Works Ltd. v. CST [Lakshmi Rattan Engg. Works Ltd. v. CST, AIR 1968 SC 488] . The expression "entertain" means to adjudicate upon or to proceed to consider on merits as observed in Hindusthan Commercial Bank Ltd. v. Punnu Sahu [Hindusthan Commercial Bank Ltd. v. Punnu Sahu, (1971) 3 SCC 124].*

36. *The meaning of the word "entertain" has been considered to mean "adjudicate upon" or "proceed to consider on merits". It has been observed in Hindusthan Commercial Bank Ltd. v. Punnu Sahu [Hindusthan Commercial Bank Ltd. v. Punnu Sahu, (1971) 3 SCC 124] as under : (SCC pp. 125-26, para 4)*

"4. Before the High Court it was contended on behalf of the appellant, and that contention was repeated in this Court, that clause (b) of the proviso did not govern the present proceedings as the application in question had been filed several months before that clause was added to the proviso. It is the contention of the appellant that the expression "entertain" found in the proviso refers to the initiation of the proceedings and not to the stage when the court takes up the application for consideration. This contention was rejected by the High Court relying on the decision of that Court in Kundan Lal v. Jagan Nath Sharma [Kundan Lal v. Jagan Nath Sharma, 1962 SCC OnLine All 38 : AIR 1962 All 547] . The same view had been taken by the said High Court in Dhoom Chand Jain v. Chaman Lal Gupta [Dhoom Chand Jain v. Chaman Lal Gupta, 1962 SCC OnLine All 29 : AIR 1962 All 543] and Haji Rahim Bux v. Haji Sanaullah & Sons [Haji Rahim Bux v. Haji Sanaullah & Sons, 1962 SCC OnLine All 156 : AIR 1963 All 320] and again in Mahavir Singh v. Gauri

Shankar [Mahavir Singh v. Gauri Shankar, 1963 SCC OnLine All 221 : AIR 1964 All 289] . These decisions have interpreted the expression "entertain" as meaning "adjudicate upon" or "proceed to consider on merits". This view of the High Court has been accepted as correct by this Court in Lakshmi Rattan Engg. Works Ltd. v. CST [Lakshmi Rattan Engg. Works Ltd. v. CST, AIR 1968 SC 488] . We are bound by that decision, and as such, we are unable to accept the contention of the appellant that clause (b) of the proviso did not apply to the present proceedings."

The word "entertain" came up for consideration in Hindusthan Commercial Bank Ltd. [Hindusthan Commercial Bank Ltd. v. Punnu Sahu, (1971) 3 SCC 124] in the context of Order 21 Rule 90 as amended by the Allahabad High Court. The expression "entertain" has been held to mean to adjudicate upon or proceed to consider on merits.

11. Keeping in mind the enunciation of law laid down by the Hon'ble Supreme Court in the case of ***Nusli Neville Wadia*** referred supra and ***Mahanayya Basalingayya Koppal*** referred supra, we are of the considered view that the sanction mandated under Section 84(4) is a curable defect and will not bar a suit from being filed. The word 'entertained' in Section 84(4) of the Act is to be interpreted as consideration of a suit on merits and not registration or filing of a suit. In the instant case, the appeal was filed on 18.02.2019 and along with said

appeal, the appellants have filed an application under Section 151 read with Order XLI Rule 27 of CPC seeking to produce the copy of the application dated 04.09.2018 received by APMC, Davanagere, on 06.09.2018 seeking permission/sanction; copy of the notice dated 02.01.2019 issued by the APMC to the appellants to appear for enquiry on 07.01.2019 for consideration of their application for sanction; copy of the resolution of APMC, Davanagere, dated 07.01.2019 and copy of communication of the decision granting sanction under Section 84(4) of the APMC Act dated 10.01.2019. The aforesaid events clearly indicate that the appellants'-plaintiffs' application was considered by the APMC and sanction was accorded under Section 84(4) of the APMC Act as per order dated 10.01.2019. It is to be noticed that the suit for recovery of money is filed based on invoices dated 22.07.2016 and 10.08.2016. The invoices and plaint averment indicate that the appellants have provided credit of 15 days and if 15 days is excluded from the invoice date as per Article

15(2) of the Limitation Act, three years limitation period would come to an end in the month of September 2019 and the suit for recovery was filed on 16.12.2017, which is within the period of limitation and granting sanction by the APMC under Section 84(4) of the APMC Act dated 10.01.2019 is also within the period of limitation. Having held that the appeal is continuation of the suit proceedings and now the appellants-plaintiffs have produced the sanction accorded by APMC to file a suit, we are of the considered view that interest of justice would be met if we remand the matter back to the trial Court to consider the suit on merits.

12. Learned counsels for the appellants have contended that the subsequent event of granting sanction by APMC is required to be taken note of.

13. Considering the said submission and taking note of the decision of Hon'ble Supreme Court in the case of ***Pasupuleti Venkateswarlu*** referred supra, we are of the

considered view that the production of sanction required under Section 84(4) of the APMC Act, now having been produced in the appeal, the defect in filing the suit is cured and the substantive right of appellants-plaintiffs to recover the money based on aforesaid two invoices cannot be scuttled for non production of sanction from APMC at the time of presentation of the plaint.

14. For the aforementioned reasons, we proceed to pass the following:

ORDER

i. This appeal is ***allowed*** with costs.

ii. The order dated 22.11.2018 passed on I.A.No.II in O.S.No.198/2017 by the II Additional Senior Civil Judge and JMFC, Davanagere, is hereby set aside and consequently I.A.No.II is rejected. The suit is restored.

iii. The trial Court shall consider the suit on merits and in accordance with law.

iv. The observations made by this Court are limited only to the extent of consideration of impugned order.

v. It is open for the trial Court to adjudicate the suit on merits and in accordance with law.

vi. Registry shall refund the eligible Court fees to the appellants on proper identification.

No order as to costs.

Sd/-
(ANU SIVARAMAN)
JUDGE

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

BSR
List No.: 3 Sl No.: 2