
(2000) 09 KAR CK 0015
In the Karnataka High Court
Case No : Civil Revision Petition No. 4081 of 1997

Canara Bank

APPELLANT

Vs

Venkatesh P.

RESPONDENT

Date of Decision : 07-09-2000

Acts Referred:

Limitation Act, 1963 — Article 23
Small Causes Courts Act, 1882 — Section 18

Citation : (2000) 4 KCCR 2807

Hon'ble Judges : Hari Nath Tilhari, J

Bench : Single Bench

Advocate : Urval N. Ramanand, Company and Nalini, for the Appellant;

Final Decision : Allowed

Judgement

Hari Nath Tilhari, J.—Heard Ms. Nalini holding brief for Sri Urval N. Ramanand, learned Counsel for the revision Petitioner. In spite of service of notice, none has put in appearance on behalf of the Respondents.

2. This revision u/s 18 of the Small Causes Court Act arises from the judgment and decree dated 6.8.1997 whereby the trial Court had dismissed the Plaintiff's suit for recovery of money to the tune of Rs. 16,940.50 ps. on the ground that the Plaintiff's suit has been barred by limitation. It has not recorded any finding on the merits of the claim. The sole question is, whether the suit has rightly been dismissed on the ground of limitation?

3. Ms. Nalini contended that the Court below illegally dismissed the suit on the ground of limitation. She submitted that the suit was originally filed on 30.1.1996. She submitted that the revision Petitioner was a credit holder and the last transaction had taken place on 31.7.1993 and whatever the Plaintiff had paid on that last transaction will give cause of action for filing of the suit in view of Article 23 of Schedule to the Limitation Act. The learned Counsel contended that the limitation is three years from that date. The learned Counsel contended that the

date of last transaction being 31.7.1993, the suit was perfectly within time i.e., within the period of three years and the learned Court below illegally refused to exercise the jurisdiction vested in it by erroneously holding the suit to be barred by time.

4. I have perused the judgment and applied my mind to the contentions raised by the learned Counsel for the applicant.

There appears to be much substance in the contention of the learned Counsel for the applicant. Article 23 of Schedule to Limitation Act provides,

Description of suit, Period of limitation, Time from which period begins to run

23. For money payable to the Plaintiff for money paid for the Defendant, Three years, When the money paid

In this case, if the date of transaction i.e., payment of money by the Plaintiff to the Defendant is taken to be 31.7.1993, the limitation would have expired on 31.7.1996. The present suit having been filed on 30.1.1996 was perfectly within limitation. In my opinion, the decision and the finding of the trial Court that period of three years expired earlier and suit was barred by time is erroneous. The trial Court itself also observes that the Plaintiff has went on adding interest after 31.7.1993 and the Plaintiff should have filed the above case within three years. But, though the transaction has come to an end, just to save the limitation, the Plaintiff has went on adding the interest and has prepared the account. Even if it be taken that the Plaintiff had gone on adding the interest was something wrong, though I don't express any opinion on it, but the last transaction being on 31.7.1993, when according to the Plaintiff, it paid for the Defendant. The limitation of three years" period had not expired and the trial Court has illegally refused to consider the suit on merits.

Revision is allowed. Let the case be remanded and a direction is issued to the trial Court to consider the suit on merits. As none has appeared to contest. No costs.