

(1965) 12 AP CK 0016

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No. 415 of 1964

Guntupalli Basavaiah

APPELLANT

Vs

Nalamothu Venkamma

RESPONDENT

Date of Decision : 15-12-1965

Acts Referred:

Negotiable Instruments Act, 1881 (NI) — Section 9

Citation : AIR 1967 AP 275

Hon'ble Judges : Venkatesam, J

Bench : Single Bench

Advocate : K.B. Krishna Murthy, for the Appellant;

Judgement

Venkatesam, J.

(1) The learned District Munsif found that the promissory note is supported by consideration, but dismissed the suit on the ground that the plaintiff, Basavayya, who is a transferee from the payee, had no parted with consideration for the transfer, and is, therefore, not a holder in due course.

(2) The trial Court had not understood the difference between a holder for collection and a holder in due course, which is well established in law. A holder in due course will be entitled to claim better rights than the transferor i.e. , any defect in title of the transferor will not affect the rights of the holder in due course. It is only where the transferee wants to claim higher rights than the transferor that he must satisfy the requirements of a holder in due course as laid down in section 9 of the Negotiable Instruments Act, i.e., for consideration he became the possessor of the instrument from the payee or endorsee before the amount mentioned in it became payable, and without having sufficient cause to believe that any defect in the title of the transferor existed.

(3) In the instant case, it is not defendant's contention that the suit amount or any part of it was paid to the transferor. Therefore, the transferor herself was entitled to recover the amount due under the promissory note; that being so, the

plaintiff-transferee, even though he had not parted with consideration, is equally entitled to recover that amount. If the learned District Munsif had carefully read the endorsement, he would have realised that it is only for collection, and not for consideration. Hence there was no need for the plaintiff to have proved that he parted with consideration.. It is also in evidence that the payee, Kotamma, got herself examined as P. W. 1 and she has no objection to a decree being passed in favour of the plaintiff.

(4) In the result, the decree and judgment of the lower Court are wholly unsustainable. The Revision Petition is allowed, and the decree of the Court below is set aside,. The suit is decreed with costs only in the trial Court.

(5) Revision allowed.