(2025) 08 TEL CK 0501

In the Telangana High Court

Case No : A.S.NO.307 Of 2020

Kolluri Laxmi APPELLANT

Vs

Bommarathi Satyanarayana RESPONDENT

Date of Decision : 21-08-2025

Acts Referred:

Constitution of India, 1950 — Article 227
Evidence Act, 1872 — Section 65(B)
Civil Procedure Code, 1908 — Order 7 Rule 14, Order 7 Rule 14(3)

Citation : (2025) 08 TEL CK 0501

Hon'ble Judges : J. Sreenivas Rao, J

Bench : Single Bench

Advocate : Jalli Kanakaiah, R.K.Chitta

Final Decision : Dismissed

Judgement

B.R.Madhusudhan Rao, J

1. This Appeal is filed by the appellant-plaintiff aggrieved by the judgment and decree passed in O.S.No.62 of 2017, dated 24.02.2020 by the Principal District Judge, Karimnagar.

2.1. Appellant-plaintiff has filed suit for recovery of Rs.27,61,960/-along with interest at the rate of 2% per month on the principal amount from the date of suit till the date of realization.

2.2. Plaintiff and defendant are known to each other since they are residents of same locality, on such acquaintance, at the request of defendant, plaintiff has advanced a loan of Rs.24,14,000/- on 16.05.2015. The defendant having received the said amount executed pro-note to that effect in favour of the plaintiff in the presence of Ch.Rajaiah with a promise to repay the same with interest @ 24% per annum. Pro-note is scribed by the defendant and he paid interest till December, 2016. Defendant is working as Senior Assistant in DEO Office and was due to retire from service. The plaintiff approached the defendant to repay the loan amount but he postponed the same on one or the other pretext. The plaintiff vexed with the attitude of the defendant, got issued a legal notice on 12.05.2017 calling the defendant to repay the amount within 15 days from the date of receipt of the notice. The defendant having received the notice, got issued reply on 24.05.2017 denying the liability and prayed to decree the suit.

3.1. Defendant filed written statement and contended that his wife Satyalaxmi and the plaintiff are close friends since last thirty years and his wife has obtained a loan of Rs.2,45,000/- from the plaintiff during the year 2001-2002 and she repaid Rs.1,00,000/- in the year 2007, however, plaintiff insisted to repay the compound interest @ 24% and deducted the amount towards part of interest and that the plaintiff has forcibly obtained promissory note for Rs.8,50,000/- on 16.09.2007 from his wife as security. On 16.05.2017, the defendant and his wife called one Karra Damodar for settlement of payment of amounts. Plaintiff made false demand of Rs.24,00,000/- and odd calculating heavy compound interest. Parties came to a settlement for Rs.10,00,000/- which has to be paid within a year without any interest but the plaintiff and her husband insisted the defendant to execute a pro-note for Rs.24,14,000/- stating that the same would be kept as security till payment of settlement of amount of Rs.10,00,000/-. After its execution, the pro-note and the Xerox copies of pro-note, dated 16.09.2007 were handed over to the plaintiff.

3.2. Defendant paid an amount of Rs.10,00,000/- on 05.01.2017 by transferring an amount of Rs.2,50,000/- each from his account to the four accounts held by the plaintiff in her name and in the name of her husband and also in the name of Hanuman Traders being done by plaintiff's family. The amount of Rs.10,00,000/- is discharged by the defendant, when himself and his wife insisted the plaintiff to return the pro-note executed by him, the plaintiff has demanded some more money and got issued notice on 12.05.2017 by suppressing the above facts. Defendant has given a suitable reply and no interest is specified in the pro-note, dated 16.05.2016 and Ch.Rajaiah was not present at the time of execution and prayed to dismiss the same.

4. The Trial Court has framed the following issues:

1. Whether the suit pro-note, dated 16.05.2015 is supported by consideration noted therein?

2. Whether the suit promissory note was obtained by the plaintiff under force and towards security for repayment of Rs.10,00,000/-?

3. Whether the plaintiff is money lender and if so, she got license under A.P. (T.A.) Money Lenders Act?

4. Whether the plaintiff is entitled to recover the entire suit amount?

5. To what relief?

5. The plaintiff has examined herself as PW.1, got examined PW.2 Ch.Rajaiah and

got marked Exs.A1 to A4. Defendant is examined as DW.1, also examined DW.2-Karra Damodar, and got marked Exs.B1 to B5.

6. The Trial Court after going through the evidence led by the parties and after going through the documents thereon, decreed the suit partly with cost for Rs.4,72,545/- together with interest thereon @ 12% per annum from the date of filing the suit till the date of decree and with subsequent interest @ 6% per annum from the date of decree till the date of realization.

7. Respondent-defendant has refused to take notice in the Appeal

vide Endorsement, dated 05.11.2020.

8. Learned counsel for the appellant submits that the Trial Court ought to have decreed the suit for an amount of Rs.24,14,000/- with interest @ 24% per annum from the date of suit till the date of realization, when the defendant admitted execution of the suit pro-note. The Trial Court has arrived at a wrong conclusion that the defendant (respondent herein) is not liable to pay interest as there is no mention of rate of interest in Ex.A1-pronote and gave contradictory versions in its judgment by opining that the defendant paid an amount of Rs.10,00,000/- to the plaintiff as evidence from Exs.B1 to B5 and also paid an amount of Rs.9,41,455/- towards interest from 16.05.2015 to December, 2016 and deducted the said amount from Rs.24,14,000/-. The trial Court erred in considering Exs.B1 to B5, which are the payment vouchers filed by the defendant claiming that he has deposited an amount of Rs.10,00,000/- in the Bank Accounts of Hanuman Traders, K.Satyanarayana, K.Laxmi and K.Satyanarayana but the defendant failed to explain that the amount deposited was towards the loan amount advanced by the plaintiff and committed grave irregularity in not granting interest @ 24% per annum on the entire amount of Rs.24,14,000/- from the date of suit till realization and prayed to modify the judgment and decree in the suit for an amount of Rs.39,57,474/-.

9. Appellant has challenged Issue No.4 i.e., 'whether the plaintiff is entitled to recover the entire suit amount?'

10. Ex.A1 is the Promissory Note, dated 16.05.2015 for an amount of Rs.24,14,000/-. It does not show any rate of interest but the plaintiff has claimed interest @ 24% per annum from January, 2017 to July, 2017. Appellant-plaintiff has admitted in the plaint that the defendant has paid interest till December, 2016 @ 24% per annum on Rs.24,14,000/-.

11. Section 80 of Negotiable Instrument Act, 1881 reads as under:

"80. Interest when no rate specified:—

When no rate of interest is specified in the instrument, interest on the amount due thereon shall, notwithstanding any agreement relating to interest between any parties to the instrument, be calculated at the rate of eighteen per centum per annum, from the date at which the same ought to have been paid by the party charged, until tender or realization of the amount due thereon, or until such date after the institution of a suit to recover such amount as the Court directs.

Explanation.—When the party charged is the endorser of an instrument dishonoured by non-payment, he is liable to pay interest only from the time that he receives notice of the dishonor".

12. Payment voucher dated 05.01.2017 of State Bank of Hyderabad, Collectorate Karimnagar Branch is in favour of Hanuman Traders vide account No.50200015029230 for Rs.2,50,000/-; payment voucher dated 05.01.2017 is in favour of K.Satyanararana vide account No.043805500126 for Rs.2,50,000/-; payment voucher dated 05.01.2017 is in favour of K.Laxmi (appellant herein) vide account No.5181530007510 for Rs.2,50,000/-; payment voucher dated 05.01.2017 is in favour of K.Satyanarayana vide account No.5181000021505 for Rs.2,50,000/- were transferred by the defendant from his account to the above said accounts vide Exs.B1 to B4. Defendant has also filed Ex.B5 - Bank account statement which goes to show that he has transferred Rs.10,00,000/- to the above said accounts on 05.01.2017 @ Rs.2,50,000/- each .PW1 has admitted in her cross-examination that she received Rs.2,50,000/- in her account and she further admitted that she did not mention about the receipt of Rs.10,00,000/- from the defendant in the plaint. PW.1 has went on to say that she do not know whether Rs.5,00,000/- was transferred by the defendant into her husband's account and Rs.2,50,000/- in the account of Hanuman Traders. Admittedly, appellant-plaintiff's husband is having vegetable business under the name and style of Hanuman traders. The Trial Court has observed the same in paragraph No.16.01. As Ex.A1 does not contain the interest part hence, the interest can be claimed @ 18%.

13. The calculation in the plaint @ 24% per annum on Rs.24,14,000/- is as under:

a)

Principal amount due under the pronote dated 16-05-2015

Rs.24,14,000/-

b)

Interest @ 24% per annum from January, 2017 to July, 2017

Rs. 3,37,960/-

C)

Costs of the legal notice

Rs. 10,000/-

The defendant is liable to pay the amount in total

Rs.27,61,960/-

14. During the course of arguments, appellant's counsel has filed calculation memo which is as under:

1

Decreetal amount

Rs.24,14,000-00

2

Interest 18% P.A. from 05.09.2017 to

Rs.10,72,283-00

24.02.2020 on Decreetal amount from

date of Suit to date of Decree (2 years

5 months and 19 days)

3

Interest at 6% on principal amount of

Rs.24,14,000/- from the date of decree

Rs. 91,254-00

i.e., 24.02.2020 to till the date of filing

the Appeal.

Total

Rs.35,77,534-00

15. The appellant has calculated the interest @ 18% P.A. from the date of filing of the suit (05.09.2017) till the date of decree (24.02.2020) and also calculated interest @ 6% on the principal amount (Rs.24,14,000/-) from the date of decree (24.02.2020) to till the date of filing the Appeal. Appellant's counsel has lost sight of the point in the Appeal, hence calculation memo stated supra in Para No.14 is not considered.

16. In Ganpat Tukaram Vs. Sopana Tukaram AIR 1928 Bom 35 (FB), where it has been held,

"Where a promissory note is payable on demand (but not at a specified place) and is silent as to interest, interest can be awarded under S.80 at 6 percent per annum from the date of the promissory note" and the same is followed in Ghasi Patra Vs. Brahma Thati 1961 SCC Online Ori 33 : AIR 1962 Ori 35. Taking into consideration the Full Bench Decision of the Bombay High Court, appellant is entitled for interest @ 18% from the date of promissory note i.e., 16.05.2015.

The contentions raised by the appellant's counsel are negatived.

17. The calculation at the rate of 18% per annum as per Section 80 of N.I. Act on Rs.24,14,000/- is as under:

a)

Principal amount (16.05.2015)

Rs.24,14,000/-

b)

Interest from January 2017 to July

Rs.2,53,470/-

2017 @ 18% per annum (seven

months)

c)

Costs of the legal notice

Rs. 10,000/-

The defendant is liable to pay the

Rs.26,77,470/-

amount in total

18. Ex.A1 is dated 16.05.2015 for Rs.24,14,000/- and admittedly defendant has paid interest till December, 2016 @ 24% per annum which comes to Rs.9,41,455/- (as arrived by the Trial Court). If the interest is calculated @ 18% per annum from 16.05.2015 till December, 2016 which comes up to Rs.7,43,512/-, the left over amount is Rs.1,97,943/- (9,41,455/- - 7,43,500/-). Respondent-defendant has already paid an amount of Rs.10,00,000/- in the month of January, 2017 plus the remaining amount of Rs.1,97,943/- to be added i.e., the left over amount paid towards interest till December, 2016. The amount calculated @ 18% per annum on 24,14,000/- is arrived at Rs.26,77,470/- which includes the cost of legal notice, from which an amount of Rs.11,97,943/- has to be deducted and the left over amount is Rs.14,79,527/-.

19. In the result, the Appeal is partly allowed. The judgment and decree in OS.No.62 of 2017, dated 24.02.2020 passed by Principal District Judge, Karimnagar is modified. Appellant is entitled for Rs.14,79,527/- together with costs and interest thereon @ 12% per annum from the date of filing the suit (05.09.2017) till the date of decree and subsequent interest @ 6% per annum from the date of decree till the date of realization. Accordingly, impugned order is modified. Consequently, Miscellaneous applications if any, stands closed.

There shall be no order as to costs.

