
(1996) 02 AP CK 0012
In the Andhra Pradesh High Court
Case No : Appeal No. 3209 of 1982

P. Saraswathi

APPELLANT

Vs

Sri Rajana Appalanaidu and Another

RESPONDENT

Date of Decision : 02-02-1996

Acts Referred:

Andhra Pradesh (Andhra Area) Agriculturists Relief Act, 1938 — Section 13

Citation : (1996) 2 ALD 577 : (1996) 2 ALT 915 : (1996) 2 APLJ 424 : (1996) 1 APLJ 424

Hon'ble Judges : B. Subhashan Reddy, J

Bench : Single Bench

Advocate : K.V. Subrahmanya Narusu, for the Appellant; E.S. Ramachandra Murthy, for the Respondent

Final Decision : Dismissed

Judgement

B. Subhashan Reddy, J.—This appeal is directed against the Judgment and Decree dated 30-3-1982 rendered by the Court of the Subordinate judge, Vizianagaram in Original Suit No. 3 of 1981.

2. Plaintiff is the appellant and I refer the parties as arrayed in the Suit. The Suit was filed to recover a sum of Rs. 16,317/- being the principal and interest due on a promissory note dated 8-12-1973 (Ex.A-1). The amount lent was Rs. 11,000/-. The plaintiff had claimed interest at the rate of 12% per annum.

3. The defendants had contested the suit denying the liability on the ground of bar of limitation and also alternative for scaling down the interest as they were agriculturists.

4. The following triable issues were framed:

(i) Whether the defendants are not liable to pay the suit amount?

(ii) Whether the suit amount is not correct?

(iii) Whether the suit is barred by limitation?

(iv) Whether the defendants are not liable for costs of the suit?

(v) Whether the suit is not maintainable?

(vi) Whether the interest is liable to be scaled down under Act 4 of 1938?

5. Ex. A-1 promissory note clearly proves the fact that the defendants and their late father Appalaswamy had obtained a loan of Rs. 11,000/- from the plaintiff. The plea of bar of limitation set up by the defendants was rightly negatived by the Court below as Exs. A-2 and A-3, which are the endorsements made on Ex. A-1 with regard to some payments, have been proved. As such, the suit was within limitation. In so far as interest is concerned, 12% per annum interest all through was not granted by the Court below and it was only granted from 22-9-1977 and for the anterior period, the interest was granted at the rate of 5% per annum.

6. The fact that the defendants are agriculturists and the loan was incurred for the said purpose has been amply proved. The Andhra Pradesh (Andhra Area) Agriculturists Relief Act, 1938 (Act No. IV of 1938 which came into force from 22-3-1938) was enacted to provide relief for the indebted agriculturists in the Andhra Area of State of Andhra Pradesh. This Act was constitutionally held to be intra vires. Section 13 of the said Act mandates that in any proceeding for recovery of a debt, the Court shall scale down all interest due on any debt incurred by an agriculturist after the commencement of this Act, so as not to exceed a sum calculated at 6% per cent per annum, simple interest, that is, to say, one pie per rupee per mensem simple interest, or one anna per rupee per annum simple interest. In accordance with the same, the defendants had pleaded for scaling down the interest to 5% per annum for the period from the date of debt till 1977. The Court below acceded to the contention of the defendants and awarded interest at 5% per annum from the date of debt till 22-9-1977 and thereafter at 12% per annum till the date of realisation.

7. Sri K. Subrahmanya Narusu, the learned counsel for the appellant, submits that even though the Governmental notification was issued on 22-9-1977, as the suit itself was filed in the year 1981 and as the said G.O. was in operation, the interest at 12% per annum was liable to be awarded all through from the date of debt to the date of payment and the lower Court had erred in scaling down the interest to 5% per annum from the date of debt till 22-9-1977. I do not concur with this argument for the reason that the above Governmental Order issued on 22-9-1977 cannot be retrospective in operation. The G.O. itself does not read that it was operative retrospectively. Even by necessary implication, it cannot be construed as such. Further, the proviso to Section 13 of the said Act No. IV of 1938, which empowers the issuance of such notification itself does not contemplate of issuing notification retrospectively. It is too well settled a law that unless the statute itself expressly states that a notification can be issued with retrospective effect, no notification can be construed as retrospective in operation.

The date of filing of the suit is not the criteria as it is the date of debt which is the criteria. The Act No. IV of 1938 is a beneficial legislation to remedy the hardship faced by the agriculturists because of the vagaries of nature and it is the settled law of rule of interpretation of statutes that the beneficial legislations have to be liberally interpreted in favour of the beneficiaries so as to further the object and intendment of the legislation. In view of the same and also in view of the fact that the Act No. IV of 1938 itself does not authorise a notification to be issued with retrospective effect, either expressly or even by necessary implication, and as the notification itself does not indicate that it is operative retrospectively, I hold that the above notification issued by the Government in exercise of the powers conferred under the proviso to Section 13 of Act IV of 1938 is only prospective in operation and that the lower Court had rightly scaled down the interest to 5% per annum from the date of debt till 21-9-1977 and then imposed 12% per annum interest from the date of notification i.e. 22-9-1977.

8. In the result, the appeal, which is devoid of merits, is dismissed; but, with no order as to costs.