

(1953) 02 MAD CK 0018
In the Madras High Court
Case No : Second Appeal No. 1266 of 1949

Pottimurthi Sadasivayya

APPELLANT

Vs

Tadepalli Venkata Narayana and Co.

RESPONDENT

Date of Decision : 06-02-1953

Acts Referred:

Contract Act, 1872 — Section 23

Citation : AIR 1953 Mad 845 : (1953) 1 MLJ 811

Hon'ble Judges : Rajamannar, C.J

Bench : Single Bench

Advocate : Suryanarayana Rao, for the Appellant; K. Kotayya, for the Respondent

Final Decision : Dismissed

Judgement

Rajamannar, C.J

1. There is no substance whatever in this second appeal. There was a forward contract for the sale and purchase of 301 tins of groundnut oil

entered into on 6-10-1944 on which date the Vegetable Oil and Oilcakes (Forward Contracts Prohibition) Order 1944, was in force, which

prohibited all forward contracts in groundnuts and groundnut oil. The plaintiff who was the purchaser) evidently to evade the provisions of this

order, prevailed upon the defendant to agree to pay Rs. 504-6-6 towards compensation and this arrangement was embodied in another contract,

dated 13-12-1944, under which the plaintiff was described as the seller and the defendant as the buyer. The price was fixed at a higher rate than

the price fixed by the original contract. On the back of this document, there was the following endorsement :

The contract whereby the seller herein bought from the buyer herein 301 tins at

the rate of Rs. 6 is settled hereby without any need for delivery of the commodity relative to this contract (thus) :

Settled that the difference in price of the said 301 tins (413 maunds) viz., Rs. 504-6-6 at the rate of Rs. 1-3-6 (per tin) is to be paid to Pottimurti

Sadasivayya Garu (plaintiff) by Tadepalli Venkatanarayana (defendant) before 31-12-1944. If it is not paid within the due date, it is to be paid

with interest at the rate annas eight per rupee one hundred per month.

The result of this arrangement is set out in para 4 of the plaint as a compromise between the parties that the defendant should pay to the plaintiff

Rs. 504-6-6 towards compensation for the loss incurred by the plaintiff. The suit was brought for the recovery of this amount with interest. One of

the defences was that the contract was illegal and unenforceable by reason of the provisions of the Vegetable Oil and Oil Cakes (Forward

Contracts Prohibition) Order, 1944. Both the Courts have upheld this plea and dismissed the suit. Hence this second appeal.

2. Obviously, the Courts below were right. The contract dated 6-10-1944 was clearly an illegal and void contract. The promise to pay Rs. 504-6-

6 as damages for breach of this contract which was itself an illegal contract cannot certainly be enforced. It is clear that the object of the parties

was to evade the provision of law which prohibited forward contracts.

3. Two points were raised before me by learned counsel for the appellant. One was that the suit contract was exempted under a subsequent

notification of the Central Government. That notification exempted forward contracts which were not transferable to third parties. It surely cannot

be contended that the suit contract was such a contract. It is an ordinary contract of a sale of goods and was transferable.

4. The second point is that though the original contract of sale was illegal, nevertheless the subsequent promise to pay Rs. 504-6-6 was

enforceable because according to the defendant he did not know that the contract was prohibited by law. No authority was cited in support of this

extraordinary contention. Learned counsel wanted to cite cases in which it has been held that even if a party enters into an obligation in ignorance

of his rights, nevertheless such a promise will be binding on him. We are not concerned with ignorance of rights; we are concerned here with an

illegal contract. Damages for breach of a void and illegal contract cannot form

the consideration for a promise to pay them.

5. There are no merits in this second appeal, which is dismissed with costs.