
(2010) 09 MP CK 0035
In the Madhya Pradesh High Court
Case No : Civil Rev. No. 316 of 2005

R. Hanfi

APPELLANT

Vs

Yogendra Singh Dashmer

RESPONDENT

Date of Decision : 17-09-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 100, 102, 115

Citation : (2010) ILR (MP) 2402 : (2011) 3 MPHT 468 : (2010) 4 MPLJ 321 : (2011) 1 RCR(Civil) 331

Hon'ble Judges : U.C Maheshwari, J

Bench : Single Bench

Judgement

U.C. Maheshwari, J.

The applicant/Defendant has directed this revision u/s 115 of CPC being aggrieved by the judgment and decree dated 16-2-2005, passed by the I Ind Additional District Judge, Balaghat, in Civil Regular Appeal No. 5-B/04 affirming the judgment and decree dated 5-1-2004 passed by the Ist Civil Judge, Class-I, Balaghat in Civil Original Suit No. 4-B/03 decreeing the suit of the Respondent against him for the sum of Rs. 20,000/- along with the interest @8% p.a. from the date of filing the suit, i.e. 31-3-2003 and the costs.

The facts giving rise to this revision in short are that the Respondent herein filed the aforesaid suit against the applicant contending that the applicant had taken the loan of Rs. 20,000/- from him on 15-2-2002, for which he also executed an acknowledgement deed on the same day. Subsequently when such sum was not repaid by the applicant, then he gave him a demand notice dated 10-3-2003, in spite its service, the same was not complied with. On the contrary, it was replied on false pretext stating that no such transaction had taken place between him and the Respondent. With these pleadings the impugned money suit was filed by the Respondent against the applicant.

In written statements of the Respondent by denying the averments of the plaint,

it is stated that with mala fide intention the Respondent after obtaining some blank papers from his department having his signatures, by fabricating the forged acknowledgement deed on it filed the impugned suit on false pleadings. As such no alleged transaction took place between him and the Respondent and the prayer for dismissal of the suit is made.

In view of pleadings of the parties, after framing the issues and recording evidence, on appreciation of the same, the suit of the Respondent was decreed against the applicant, as stated above. On challenging such decree by the applicant, before the Appellate Court, on consideration by affirming the same his appeal was dismissed, on which the applicant has come to this Court. As the subject matter being money suit of less than Rs. 25,000/-, in view of Section 102 of Code of Civil Procedure, barring the Second Appeal u/s 100 of Code of Civil Procedure, the applicant-Defendant has preferred this revision.

Applicant's counsel after taking me through the pleadings of the parties, evidence available on record and the exhibited documents argued that on proper appreciation of such evidence, the suit of the Respondent ought to have been dismissed by both the Courts below but the same was decreed under wrong appreciation of the evidence. According to him the Respondent herein could neither prove the alleged loan transaction nor the execution of alleged acknowledgement deed by the applicant. In continuation, she said that alleged acknowledgement deed being not written or executed on requisite revenue ticket or stamp is not admissible under the existing law. Thus, the decree being based on such document is not sustainable. In support of this contention, he placed his reliance on a decision of Hon"ble Orissa High Court in the matter of Naladhar Mahapatra and Another Vs. Seva Dibya and Others, . However, in response of query of the Court whether objection regarding admissibility of such document, the acknowledgement deed, (Ex. P-1) was taken by the applicant at the appropriate stage of the case in the trial Court when the same was being exhibited in the case, on which he fairly conceded that no such objection was taken at that stage or even at the stage of First Appeal. The same was taken in the Appellate Court and now is being taken in this revision and prayed for admission and allowing this revision.

Having heard the counsel, after perusing the record and the impugned judgments, I am of the considered view that in the available circumstances the concurrent findings of both the Courts below decreeing the impugned suit, on appreciation of evidence, do not require any interference under the re-visional jurisdiction of this Court vested u/s 115 of Code of Civil Procedure.

It is settled proposition of law that once the document is exhibited while recording the statements of witnesses and the same is not objected by the other side at that stage, then after marking exhibits, the other side did not have any right or authority to challenge its admissibility at any subsequent stage on the ground of deficit stamp or of non-payment of the stamp duty. Long before on arising the occasion, such question was answered by this Court in the matter of

Munnalal Kailashchandra v. Jagannath Prasad (Dead by L.Rs.) and Ors. 1980 MPLJ 592 and also in the matter of Kanchedi Lal v. Patel Ram Prasad 1976 MPLJ 71. So the arguments advanced by the applicant's counsel that the acknowledgement deed, Ex. P-1 is not admissible document for any purpose has neither appealed me nor sustainable under the existing legal position. Thus, on such count the judgment of the Courts below could not be said to be contrary to law as under any error of jurisdiction vested in such Courts. On the other hand there is sufficient circumstance to draw an inference that same has been passed in consonance with the available evidence and in conformity with the existing legal position. Therefore, the impugned judgments and decree do not require any interference at this stage under the revisional jurisdiction of this Court.

So far the arguments of the applicant's counsel saying that evidence has not been properly appreciated by the Courts below is concerned, it is suffice to say that on appreciation of the recorded evidence both the Courts have concurrently decreed the suit of the Respondent against the applicant for the alleged sum and such concurrent findings being in consonance with the available evidence, the same could not be interfered by re-appreciation of evidence u/s 115 of Code of Civil Procedure. So this revision does not require any consideration on such question also.

In view of aforesaid discussion, in the lack of any apparent perversity, infirmity or in the absence of anything against the propriety of law the impugned judgments do not require any interference at this stage under the revision jurisdiction of this Court. Therefore, this revision being devoid of any merits, is hereby dismissed at the stage of motion hearing. There shall be no order as to the costs.