
(1997) 02 AP CK 0006
In the Andhra Pradesh High Court
Case No : CRP No. 1173 of 1997

Raghavarapu Anjaneyulu

APPELLANT

Vs

Rebba Venkata Ramanamma and Another

RESPONDENT

Date of Decision : 27-02-1997

Acts Referred:

Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 — Section 10, 13(1), 2, 9(III)

Citation : (1998) 3 ALD 655 : (1998) 3 ALT 625 : (1998) 2 APLJ 218

Hon'ble Judges : P. Ramakrishnam Raju, J

Bench : Single Bench

Advocate : Mr. T. Veerabhadrayya, for the Appellant; Mr. Mohd. Azizullah Khan, for the Respondent

Judgement

1. This appeal is preferred by the plaintiff being aggrieved by the judgment and decree dated 26th October, 1984 in O.S.No.191/82 so far as the decree relates to scaling down of the interest on the loan amount.

2. The learned Counsel appearing for the appellant contended that even though the loan was advanced for agricultural purposes, but in view of Section 21A of the Banking Laws (Amendment) Act, 1983 such a scaling down is not permissible. He further submitted that Section 4(c) of A.P. (Andhra Area) Agriculturist Relief Act, 1938 does not apply to the facts of this case. In view of Section 21A of the Banking Laws (Amendment) Act, 1983 (for short the Act) the defendant would not be entitled for benefit of Section 4(e) regarding the scaling down of the interest. He further submitted that the Court below has erred in relying upon the judgment of a Division Bench of this Court reported in Indian Bank Alamuru v. Muddana Krishna Murthy, AIR 1983 AP 347 since the same has already been overruled by the Supreme Court in Bank of India Vs. Vijay Transport and Others, . He further submitted that the Court below has erred in relying upon the judgment in M. Satyanarayanan v. Andhra Bank Ltd., 1984 (2) APLJ 21 since the same has also been overruled by a full bench of this Court in

State Bank of Hyderabad and Vs. Advath Sakru and another, . Therefore, he submitted that the impugned judgment and decree insofar as it denies the plaintiff the interest, as per the rate claimed in the suit, is illegal and without jurisdiction and contrary to law. On the other hand the learned Counsel appearing for the respondents strenuously supported the impugned judgment and decree.

3. In order to appreciate the rival contentions, I have to note the facts of this case in brief. The plaintiff-appellant filed a suit for recovery of Rs.21,184.00 contending that the defendants obtained a loan on the basis of a registered mortgage deed dated 19-3-1974 for a sum of Rs.12,000/-. Thereafter, the defendants again obtained a loan of Rs. 12,000/- on 16-9-1975 executing a promote in favour of the plaintiff. The second defendant has also executed a document as a coobligant. It is further alleged in the plaint that as per the document executed, the defendants undertook to repay the said amount to the plaintiff an order, on demand, together with interest at 5% above the Reserve Bank of India rate with a minimum of 14% per annum with quarterly rests. On the same day they also executed a separate letter stating that they would pay the entire amounts with interest before 31-5-1976 and in case of default they also undertook to repay the amount with interest at 15% per annum. But the defendants 1 and 2 failed to discharge the debt by 31-5-1976 in spite of repeated requests made by the plaintiff-Bank. However, the defendants executed a debt acknowledgment letter on 5-7-1978 and 22-6-1981 acknowledging the debt for the purpose of Section 18 of the Limitation Act. Meanwhile the defendants paid an amount of Rs.5,720/- on 23-2-1977. The balance was not paid and thus, the principal amount of Rs.10,172.40 and the interest together worked out to Rs.21,184/- as on the date of filing of the suit, and on that basis the plaintiff filed a suit for recovery of Rs.21,184.

4. The first defendant filed a written statement and the second defendant adopted the same by filing a memo. In the written statement, the allegations made by the plaintiff were denied. However, it is stated that the defendants being agriculturists and the suit debt having been incurred for agricultural purposes, the defendants were entitled to the benefit of A.P. Act IV of 1938 and as such the interest is liable to be scaled down. They further stated that having regard to these circumstances, the interest as claimed by the plaintiff is exorbitant, excessive and usurious and the claim of penal interest is arbitrary and opposed to law. On that basis the Court below framed the issues. It appears that the original issues were recast and modified on 13-8-1984 and the modified issues read as under :-

(1) Whether the interest is liable to be scaled down in accordance with the provisions of A.P. Act IV of 1938?

(2) Whether the interest claimed is usurious ?

(3) To what relief ?

5. The Court below took up issue numbers 1 and 2 together and on the basis of the admission made by PW1 that defendants were agriculturists and that the debt was contracted for agricultural purposes, held that the defendants were entitled for scaling down of the interest in accordance with the provisions of A.P. Act IV of 1938. In support of its conclusion the trial Court relied upon the rulings in *Indian Bank Alamuru v. Mitddana Krishna Murthy and another* (AIR 1983 AP 347), *V. Nukaraju v. P. Edukondalu* (1982 (2) APLJ 16), *M. Satyanarayanan v. Aridhra Bank Ltd* (1984 (2) APLJ 21, and *Kancherla Punishottam Kondimcherla Nageswara Rao* (1978 (2) APLJ 145 (supra) and ultimately held that notwithstanding Section 21A of the Banking Laws (Amendment) Act, 1983 the defendants were entitled for the benefit of Act I of 1984.

6. It is no doubt true that u/s 7 of the A.P. (Andhra Area) Agriculturists Relief Act, 1938 there is a provision regarding scaling down of the debt. The said section further makes it clear that "No sum in excess of the amount as so scaled down shall be recoverable from such debtor or from any land or interest in land belonging to him; nor shall his property be liable to be attached and sold or proceeded against in any manner in the execution of any decree against him insofar as such decree is for an amount in excess of the sum as scaled down under this chapter. Section 4 of the said Act provides that "Nothing in this Act shall affect debts and liabilities of an agriculturist falling under certain heads. Under sub-section 4(e), the Act is not made applicable to any liability in respect of any sum due to any cooperative society including a land mortgage bank, registered or deemed to be registered under the Andhra Pradesh (Andhra Area) Cooperative Societies Act or any debt due to any corporation formed in pursuance of an Act of Parliament of the United Kingdom or any special Indian Law or Royal Charter or Letters Patent. In *Indian Bank v. Muddana Krishna Murthy*, AIR 1983 AP 347 (supra) this Court took the view that any special Indian law would mean only the law made by the United Kingdom for India but not the law made by the Indian Legislature. The Hon"ble Supreme Court overruled the judgment in *Bank of India Vs. Vijay Transport and Others*, by holding that the phrase "Indian law" found in Section 4(e) of the said Act does not exclude a law made by the Indian Legislature and it also does not exclude a corporation either constituted in pursuance of such Indian law or by such law itself, and consequently held that the Banking Companies constituted under the Banking Companies Act though constituted under the Indian Law u/s 4(e) of the Debt Relief Act, the Act is not made applicable to the banking transactions and loans and as such the debtor would not be entitled for any relief under the Debt Relief Act, in case of loans advanced by Banks. The other judgment relied upon by the trial Court reported in *M. Satyanarayana v. Andhra Bank Lid.*, 1984 (2) APLJ (SH) 21 (supra) also has been overruled by the Full Bench of this Court in *State Bank of Hyderabad and Vs. Advath Sakru and another*, by holding that prohibition contained u/s 21A of Banking Regulation Act not to reopen the transaction between the Banking Company and its debtor under the provisions, applies equally to advances made for agricultural purposes, and Section 21A makes no

distinction between advances made for agricultural purposes or for commercial purposes. Therefore, a debtor would not be entitled for any scaling down in terms of the Debt Relief Act in view of Section 21A of the Banking Regulation Act even if the loan is for agricultural purpose. From these judgments it is clear that the entire approach of the Court below is totally erroneous in scaling down the interest on the basis of the judgment which were overruled either by the Full Bench of this Court or by the Supreme Court of India as referred to above. However, the case on hand does not rest at that. There is another point deserves to be considered in this case in view of the judgment reported in Corporation Bank Vs. D.S. Gowda and Another, . In the said judgment the Hon"ble Supreme Court while considering the effect of Section 21A of the Banking Regulation Act read with the Mysore Usurious Loans Act, 1923 held that in case of agricultural loans the Banks were not entitled the resort to either quarterly rests or half-yearly rest in view of the circulars issued by the Reserve Bank of India in this behalf. In paragraph 23 of the judgment the Hon"ble Supreme Court laid down the law as under:

"We have already referred to the various circulars issued by the Reserve Bank from time to time in exercise of power conferred by Section 21/35A of the Banking Regulation Act. We have pointed out that the said circulars/directives provide that agricultural advances should not be treated on a par with commercial loans insofar as the rate of interest thereon is concerned because the farmers do not have any regular source of income except sale proceeds of their crops which, income they get once a year. The question of recovery of interest with quarterly or six monthly rests from farmers is, therefore, not feasible. The fact that the farmers are fluid at a given point of time every year has to be kept in mind in determining the point of time when they should be expected to pay the loan or pay the instalment/interest on advances. Therefore, to allow the Banks to charge interest on quarterly or half-yearly rests from farmers would tantamount to virtually compelling them to pay compound interest, since they would not be able to pay the interest except once in a year i.e. when they receive the income from sale proceeds of their crops. The Reserve Bank has shown concern for the farmers by directing all banking institutions to so regulate the recovery of interest as to coincide with the point of time when the farmers are fluid. It has, therefore, been emphasised by the Reserve Bank that interest should be charged once a year to coincide with the point of time when the farmer is fluid and interest on current dues should not be compounded although it may be done when the advance/instalment becomes overdue. Thus according to the circulars/directives, so far as loans for agricultural purposes are concerned, at best interest may be charged with yearly rests and may be compounded if the loan/instalment becomes overdue. In the present case, since interest was charged with six-monthly rests that was clearly in contravention of the Reserve Bank circulars/directives. Compounding of interest on current dues on agricultural advances having been discouraged, the Bank was not entitled to charge interest with shorter periodical rests and compound the same. The Bank

could add interest outstanding to the principal and compound the interest when the crop loan or term loan becomes overdue having regard to the tenor of the circular dated 14-3-1972. The High Court was, therefore, fully justified in coming to the conclusion that the Bank was not entitled to charge interest with half-yearly rest."

7. From the above law declared by the Supreme Court it is clear that insofar as the agricultural loan is concerned the Banks would not be justified in charging interest either on quarterly rest or on half-yearly rests since normally farmers would be fluid only after they harvest the crops and thus they get income once in a year. Therefore, the Hon"ble Supreme Court held that on such agricultural loans interest may be charged on yearly rests and on that basis may be compounded if the loan/ instalment becomes overdue. Following the said judgment I think it proper to modify the impugned judgment and decree by awarding interest at the rate of 14% on the basis of annual rests from the date of the loan to the date of realisation.