

(2015) 04 KAR CK 0362

In the Karnataka High Court

Case No : Civil Revision Petition No. 1010 of 2013

Shekarappa Kalakappa Shreegiri

APPELLANT

Vs

Veeranaguda

RESPONDENT

Date of Decision : 01-04-2015

Acts Referred:

Citation : (2015) 3 AKR 85 : (2015) 4 KCCR 3038

Hon'ble Judges : B. Veerappa, J

Bench : Single Bench

Advocate : Chandrashekar Banakar and Hemant R. Chandangoudar, for the Appellant; H.N. Gularaddi, Advocates for the Respondent

Final Decision : Dismissed

Judgement

B. Veerappa, J.

1. The petitioner filed this civil revision petition against the judgment and award dated 15.12.2012 made in S.C. 4/2012 on the file of the Addl. Senior Civil Judge, Gadag dismissing the suit of the plaintiff. The petitioner, who is the plaintiff before the trial Court, has filed the suit for recovery of money of Rs. 12,684/- along with interest at 6% p.a. against the defendant contending that, plaintiff is the partnership firm represented by its managing partner. The defendant is an agriculturist. Both the plaintiff and defendant are known to each other and on 15.05.2009, the defendant came to the shop of the plaintiff and requested for an advance amount of Rs. 8,237/-. Accordingly, the plaintiff paid the money to the defendant and the defendant promised the plaintiff that he will bring his agricultural produce for sale to his shop and sale proceeds would be adjusted towards the amount received in advance. The plaintiff also contended that, in respect of the said advance amount made by the plaintiff, plaintiff has maintained khata and book, the defendant put signature in kirdhi book acknowledging the receipt of advance money and plaintiff is maintaining regular account of the defendant in his shop as per the trade rules and regulations. But the defendant failed to bring his agricultural produce to the shop of the plaintiff

as promised and also not repaid the amount received. Therefore, the defendant is liable to pay interest at the rate of 18% p.a. as per the trade usage and if the defendant failed to repay that amount, he is also liable to pay future interest at the rate of 6% p.a. etc.

2. The defendant/respondent has filed written statement denying the plaint averments including the signature in kirdhi book. It is also specifically contended in the written statement that the suit filed by the plaintiff is not maintainable in view of the provisions of Section 84(4) of the Karnataka Agricultural Produce Marketing (Regulations and Development) Act, 1966 (hereinafter referred to as the APMC Act, for short). It is further stated in the written statement that there was no transaction on 15.05.2009 as alleged. Therefore, the defendant sought for dismissal of the suit.

3. Based on the pleadings, the trial Court framed the following points for consideration:

i. Whether the plaintiff proves that he is entitled for the relief as he prayed?

ii. What order?

4. The plaintiff, in order to establish his case, examined himself as PW 1 and produced documents at Exs. P1 to P9. The defendant examined himself as DW 1 and not produced any documents.

5. After considering the entire materials on record, the trial Court dismissed the suit holding that the suit filed by the plaintiff is not maintainable. Against the said order, the present revision petition is filed.

6. Sri Chandrashekar Banakar representing Sri Hemant R. Chandanagoudar, learned Counsel for the petitioner contended that, the judgment and decree passed by the trial Court is erroneous and contrary to law, since the trial Court dismissed the suit only on the ground of maintainability. He also contended that the trial Court has not considered both the oral and documentary evidence on record and therefore sought to set aside the impugned judgment and decree passed by the trial Court.

7. Sri H.N. Gularaddi, learned Counsel appearing for the respondent sought to justify the impugned judgment and decree.

8. I have given my thoughtful consideration to the arguments advanced by the learned Counsel for the parties and perused the entire material on record.

9. It is an admitted fact that the plaintiff filed the suit for recovery of Rs. 12,684/- with interest at 6% p.a. alleging that the defendant has borrowed a loan from him and the defendant has also signed to the khata and kirdhi books. The said averment has been specifically denied by the defendant by filing the written statement and also raised a specific ground in the written statement that the suit filed by the plaintiff is not maintainable in view of the provisions of Section 84(4) of the APMC Act. Section 84(4) of the APMC Act reads as under:

"84. Provision for settlement of disputes:

.....

(4) Notwithstanding anything contained in any law, no suit or other legal proceeding shall be entertained by any Court in respect of disputes referred to in sub-section (1), without the previous sanction of the market committee."

Plain reading of the said provision makes it clear that previous sanction of the Marketing Committee is mandatory before filing the suit. The plaintiff has not produced any material document before the Court to prove that he has obtained previous sanction of the Marketing Committee. In the absence of any material produced before the Court that he has obtained previous sanction, the very suit filed by the plaintiff is not maintainable. Considering the entire materials on record, the trial Court has passed the impugned judgment and decree dismissing the suit as not maintainable.

In view of the aforesaid reasons, the impugned judgment and decree passed by the trial Court is in accordance with law. No interference is called for in the revision petition.

Accordingly, the revision petition is dismissed.