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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 31st DAY OF JANUARY 2008

BEFORE

THE HON'BLE MR. JUSTICE N.K.PATIL

CIVIL REVISION PETITION NO.939 OF 2008

BETWEEN:

1 B RAJENDRA
49 YEARS S/O H.R. BYANNA
DEPUTY MANAGER, KSIIDC LTD.,
NO 36 NSIL HOUSE, CUNNINGHAM ROAD
BANGALORE 52
AND R/O NO 1929/1 7th C CROSS
VIVEKANAGAR BANGARPET 563 114
... PETITIONER
(By Sri: V F KUMBAR, ADVOCATE)

AND :

1 V SUBRAMANI
51 YEARS
S/O VENKATAPPA
D.NO 1440, 3rd CROSS, VIJAYANAGAR,
BANGARPET, KOLAR DISTRICT AND PRESENTLY
R/O PRASHANTHAGAR S.G. KOTE POST
BANGARPET 563 114

SINCE DEAD BY L.Rs.

- (1) SMT.V. LAKSHMI
MAJOR,
W/O LATE V.SUBRAMANI
- (2) V.S.SRINIVASAMURTHY
AGED ABOUT 29 YEARS
S/O LATE V.SUBRAMANI

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(3) V.S.RAVIKUMAR
AGED ABOUT 27 YEARS
S/O LATE SUBRAMANI

(4) V.S.CHANDRAMOHAN
AGED ABOUT 26 YEARS
S/O LATE V.SUBRAMANI

ALL ARE RESIDING AT
NERALAKERE BILLAGE
BANGARPET TALUK,
BANGARPET-563 114
KOLAR DISTRICT)

) amended vide
) order dated
) 29-3-07

... RESPONDENTS

(By Sri: S B MUKGANNAPPA, ADVOCATE, FOR R1(1-4))

THIS CRP IS FILED U/SEC 18 OF THE KARNATAKA SMALL CAUSES ACT R/W SEC 115 CPC AGAINST THE JUDGMENT AND DECREE DATED:8.3.2004, PASSED IN SC.NO.131/1999, ON THE FILE OF THE CIVIL JUDGE (SR.DN.), K.G.V., DECREES THE SUIT FOR RECOVERY OF MONEY AND ENTITLING THE RESPONDENT HEREIN TO RECOVER INTEREST AT THE RATE OF 24% P.A. FROM THE PETITIONER HEREIN FROM THE DATE OF SUIT TILL THE DATE OF REALISATION.

THIS C.R.P.COMING ON FOR HEARING THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

The petitioner being aggrieved by the Judgment & decree dated 8-3-2004 passed in S.C.No.131/99 on the file of Civil Judge, (Junior Division), K.G.F., has presented the instant Civil Revision Petition.

2. The respondent herein filed a suit for recovery of sum of Rs.8,650/- with interest at

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the rate of 24% p.a. from the date of suit till the date of realisation, contending that the petitioner had availed loan by executing a demand promissory note dated 25-10-1996 promising to repay the said sum of Rs.5,000/- together with interest at 24 p.m. on demand to the respondent herein. In spite of repeated requests and reminders the petitioner did not pay amount. Therefore, the respondent was constrained to issue legal notice through an Advocate on 5-7-99. But the petitioner failed to settle the claim nor given reply to the notice. After receipt of summons notice, the petitioner appeared before the Court and filed a written statement by denying the execution of promissory note and consideration received in favour of the respondent and also denied by contending that promote is concocted one and created for the purpose of filing the suit. Further he has admitted that he had received the legal notice and he has replied it suitably and therefore, the respondent is not entitled to maintain the suit.

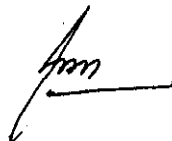


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3. The trial Court after hearing both the sides and after considering the oral and documentary evidence and by assigning cogent reasons at paras-10 & 11 decreed the suit. Being aggrieved by the impugned Judgment and decree passed by the trial Court, the petitioner felt necessitated to present the instant Civil Revision Petition.

4. I have heard the learned counsel for the petitioner and the learned counsel for the respondent.

5. After careful perusal of the Judgment & order passed by the trial Court, I do not find any error of law muchless material irregularity as such committed by decreeing the suit filed by the petitioner. The trial Court after critical evaluation of the oral and documentary evidence and by assigning cogent reasons at paras 9, 10 & 11 has decreed the suit. The said reasoning given for decreeing the suit is just and proper. I do not find any perversity as such committed. Further, so far as it relates to awarding of



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interest at the rate of 24% per annum from the date of the suit till the date of realisation is concerned, it requires some modification having regard to the nature of the loan availed by the petitioner by executing a promissory note which is very much available in the original file and marked as Ex.P-1. In the interest of justice and taking into consideration the hardship that may be caused to the petitioner as well as the respondent, the impugned Judgment & decree passed by the Courts below so far as it relates to awarding of interest at the rate of 24% per annum is hereby modified to the effect that instead of awarding 24% interest per annum the same is reduced to 18% per annum from the date of the suit till the date of realisation.

With the above modifications, this Civil Revision Petition stands disposed of.

Rsk/-

Sd/-
Judge