

Indian Bank

Vs

Datla Venkata Chinna Krishnam Raju

Civil Appeal No. 91 of 1989

(Ranganath Misra, K. Ramaswamy JJ)

26.10.1990

JUDGMENT

1. The present appeal arises from the judgment of the High Court of Andhra Pradesh in Second Appeal No. 812/ 87 dated 26-6-1988 (reported in 1988 (2) Andh LT 148). By the above judgment, the High Court disposed of two appeals - one preferred by the present appellant (Second Appeal No. 812/ 87) and the second preferred by the Bank of Baroda (Second Appeal No. 832/87). The points involved in both the appeals were the same arising from the common judgment. In Second Appeal No. 832/ 87, the Bank of Baroda preferred an appeal to this Court which was disposed of by the decision of this Court in Bank of Baroda v. Rednam Nagachaya Devi (reported in (1989) 4 SCC 470 : (AIR 1989 SC 2105)). Learned Counsel for the appellant submits that the present appeal may be disposed of in terms of the above judgment. On such a request being made to us, we directed the issue of a notice to the respondent by the order dated 3-8-90. Though the respondent had been served in the original appeal, the notice issued after this request was made has not evoked any response. Notice was sent by registered post but neither the A.D. card nor the unserved registered cover has been received back by the Court. We, therefore, presume that the respondent has been served. Learned Counsel for the appellant states that his attempt to serve the respondent dasti has not been successful. However, the appellant has been served in the main appeal and presumably has also been served in pursuance of our order dated 3-8-90 and the point in the appeals seems to be covered directly by the decision in the case above cited. We proceed to dispose of this appeal as follows:

Following our decision in Bank of Baroda v. Rednam Nagachaya Devi (reported in (1989) 4 SCC 470: (AIR 1989 SC 2105)), we set aside the order of the High Court. We hold that, though the respondent is not entitled to claim relief under Andhra Pradesh Agriculturists Relief Act, 1938 against the appellant, the question as to whether the debt in favour of the appellant is liable to be scaled down in terms of the provisions of Usurious Loans Act, 1918 should be considered by the High Court insofar as they are applicable in relation to the debts due to the appellant. With these observations, the judgment of the High Court is set aside and the second appeal restored on the file of the High Court for fresh disposal in accordance with law on the point above mentioned.

2. The appeal is disposed of accordingly. There will be no order as to costs.

Order accordingly.

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