

M/S. P. VAIKUNTA SHENOY & CO.

A

v.

P. HARI SHARMA

OCTOBER 31, 2007

[A.K. MATHUR AND MARKANDEY KATJU, JJ.]

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Karnataka Money Lenders Act, 1961; S. 2(10):

Business/market practices—A commission agent advancing money to supplier of areca nut, however, charging interest—Supplier allegedly did not repay the amount—Suit for recovery—Decreed by trial Court—Reversed by High Court—On appeal, Held: Though the commission agent charging interest on loan advanced by him to supplier but his principal aim of such advancing of loan was to ensure regular supply of goods, areca nuts and not money lending—Such a practice prevalent and wide-spread in such business—Applying principle of purposive construction to the definition of money-lenders, appellant could not be said to be a money lender as he was not doing the business of money lending in a strict sense—Hence, impugned judgment set aside and judgment of trial Court restored—Interpretation of Statutes—Purposive construction.

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Appellant was a commission agent of areca nut and the respondent was a supplier. The respondent used to receive advance money from the appellant off and on to secure regular supply of the areca nuts. Appellant alleged that the respondent had borrowed certain amount from him but did not repay the same. Therefore, he filed a suit for recovery of the amount with interest. Before the trial Court, the respondent contended that the appellant was a money-lender and he did not have a licence as required by the Karnataka Money Lenders Act, 1961. Therefore, the suit was not maintainable. The trial Court decreed the suit. On appeal, the decree was set aside by the High Court. Hence the present appeal.

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Appellant contended that he was not a money lender as defined

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A in Section 2(10) of the Karnataka Money Lenders Act.

Respondent submitted that in view of the definitions as given u/s. 2(10) of the Karnataka Money Lenders Act, the appellant was clearly a money-lender.

B Allowing the appeal, the Court

HELD: 1.1. The purpose of the Money Lenders Act is to prevent the malpractice of oppression by money-lenders to take advantage of peoples' poverty. [Para 7] [728-C]

C 1.2. In the money lending business the object of the money-lender is to earn interest on the loan he has advanced. In the present case the object of advancing the loan by the appellant was not to earn interest thereon but to ensure the regular supply of areca nuts. Though, no doubt, interest at the rate of 18 per cent per annum was charged on these loans yet that was not the principal object of advancing the loan. [Para 8] [728-D, E]

D 1.3. In business various methods are adopted by a businessman for ensuring the smooth running of his business. Very often, one of the methods is that the businessman advances money to his supplier of goods to ensure that the supplies are regular and are made to him rather than being diverted to other parties. There is nothing illegal in this practice and it is widespread. [Para 9] [728-E, F]

E 2.1. When the provisions of the Karnataka Money Lenders Act are construed, the object for which it was made must be seen, and for this purpose principle of purposive construction has to be adopted. [728-F, G]

F *New India Sugar Mills v. Commissioner of Sales Tax*, AIR (1963) SC 1207: [1963] Supp 2 SCR 459 and *U.P. Bhoodan Yagna Samiti v. Braj Kishore*, AIR (1988) SC 2239: [1988] 4 SCC 274, relied on.

G 2.2. A purposive interpretation has to be given to the definition of money-lenders. From this angle the appellant could not be said to be a money-lender as he was not really doing the business of

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money lending in the strict sense but was only advancing loans to secure the regular supply of areca nuts. [Para 13] [729-D, E]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 5540 of 2001.

From the final Judgment and Order dated 25.3.2000 of the High Court of Karnataka at Bangalore in R.F.A. No. 531 of 1997.

V.B. Joshi and Kailash Pandey for the Appellant.

G.V. Chandrashekhar, Anjana Chandrashekhar and P.P. Singh for the Respondent.

The Judgment of the Court was delivered by

MARKANDEY KATJU, J. 1. This appeal has been filed against the impugned judgment of the Karnataka High Court dated 25.03.2000 in R.F.A. No. 531 of 1997. We have heard learned counsel for the parties and perused the record.

2. The plaintiff-appellant has alleged that he was carrying the business of commission agent. The defendant was having an areca nut (supari) garden and he used to supply the areca nuts to the plaintiff. The defendant used to receive money from the plaintiff off and on, which the plaintiff used to advance him to secure regular supply of the areca nuts. It was alleged by the plaintiff that defendant had borrowed Rs.72,044.43 paise as per the ledger account regularly maintained by the plaintiff. Hence the plaintiff filed a suit for recovery of this amount with interest at the rate of 18 per cent per annum.

3. The defendant denied the plaintiffs' case and advanced the plea that plaintiff was a money-lender and he did not have a licence as required by the Karnataka Money Lenders Act, 1961. Consequently, the defendant alleged that the suit was not maintainable as the plaintiff had not taken a licence under the aforesaid Act.

4. The Trial Court decreed the suit of the plaintiff but the said decree was set aside by the High Court. Hence this appeal.

5. Learned counsel for the plaintiff-appellant has submitted that the

A plaintiff was not a money-lender as defined in Section 2(10) of the Karnataka Money Lenders Act. The aforesaid Section 2(10) states that a money-lender is one who “carries on the business of money lending in the State”.

B Section 2 (2) defines the business of money lending as follows:-

‘Business of money lending means business of advancing loan whether or not in connection with or in addition to any other business’.

C 6. Learned counsel for the respondent submits that in view of the aforesaid definitions the appellant was clearly a money-lender. We do not agree.

D 7. It may be mentioned that the purpose of the Act was to prevent the malpractice of oppression by money-lenders to take advantage of peoples’ poverty.

E 8. In the money lending business the object of the money-lender is to earn interest on the loan he has advanced. In the present case the object of advancing the loan by the appellant was not to earn interest thereon but to ensure the regular supply of areca nuts. Though, no doubt, interest at the rate of 18 per cent per annum was charged on these loans yet that was not the principal object of advancing the loan.

F 9. In business various methods are adopted by a businessman for ensuring the smooth running of his business. Very often, one of the methods is that the businessman advances money to his supplier of goods to ensure that the supplies are regular and are made to him rather than being diverted to other parties. There is nothing illegal in this practice and it is widespread.

G 10. When we construe the provisions of the Karnataka Money Lenders Act we must see the object for which it was made and we have to adopt the purposive construction.

11. As observed by this Court in *New India Sugar Mills v. Commissioner of Sales Tax*, AIR (1963) SC 1207, p. 1213 : [1963] Supp 2 SCR 459] :-

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“It is a recognized rule of interpretation of statutes that expressions used therein should ordinarily be understood in a sense in which they best harmonize with the object of the statute, and which effectuate the object of the legislature”. (See also the decisions mentioned in G.P. Singh’s “Principles of Statutory Interpretation: 9th Edition 2004 at Page 110).

12. To give an example, under the U.P. Bhoodan Yagna Act, 1953 the lands which were donated by large landholders could be allotted to ‘landless persons’. It was held by this Court in *U.P. Bhoodan Yagna Samiti v. Braj Kishore*, AIR (1988) SC 2239: [1988] 4 SCC 274 that the expression ‘landless persons’ should be interpreted to mean landless peasants and not landless businessman. If a literal meaning was given to the expression ‘landless persons’ then even a very rich businessman who possessed hundreds of crores of rupees can claim allotment of a piece of land on the ground that he was a landless person as he owns no land. That could not possibly be the object of the Act. The object of the Act was to give land to landless peasants only.

13. In view of the above discussion we are of the opinion that a purposive interpretation has to be given to the definition of money-lenders. From this angle the appellant could not be said to be a money-lender as he was not really doing the business of money lending in the strict sense but was only advancing loans to secure the regular supply of areca nuts.

14. In view of the above this appeal is allowed, impugned judgment of the High Court is set aside and the judgment of the trial court is restored. No order as to costs

S.K.S.

Appeal allowed.