

Kaju Devi and anr. Vs. H.S. Rudrappa Alias Rudy and ors.

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Court : Karnataka

Decided On : Jun-08-2005

Reported in : ILR2005KAR4370; 2006(2)KarLJ551

Judge : V. Gopala Gowda, J.

Acts : Karnataka Rent Control Act, 1961 - Sections 31; [Partnership Act, 1932](#) - Sections 69; Evidence Act - Sections 120; [Indian Contract Act, 1872](#) - Sections 181 and 182; [Transfer of Property Act, 1882](#) - Sections 106(4); Code of Civil Procedure (CPC) - Order 3, Rules 1 and 2 - Order 18, Rule 2 - Order 20, Rule 12; [Constitution of India](#) - Articles 141, 363 and 366(22)

Appeal No. : R.F.A. No. 658/2005

Appellant : Kaju Devi and anr.

Respondent : H.S. Rudrappa Alias Rudy and ors.

Advocate for Def. : M.V. Raghunathachar, Adv.

Advocate for Pet/Ap. : Nagaraj and Associates

Disposition : Appeal dismissed

Judgement :

V. Gopala Gowda, J.

1. This Regular first appeal is filed by the defendants questioning the correctness of the judgment and decree dated 11.3.2005 passed by the I Addl. City Civil and Sessions Judge, Bangalore in O.S. No. 6689/99, wherein it has directed the defendants to deliver the vacant possession of the suit schedule property to the plaintiffs within 60 days from the date of the judgment and further directed that there shall be an enquiry for mesne profit as contemplated under Order 20 Rule 12 Code of Civil Procedure and they shall pay a sum of Rs. 38,500/- with interest at 12% per annum towards arrears of rent to the plaintiffs from the date of the suit till the realization of the same, they have sought for setting aside the impugned judgment and decree by allowing this appeal.

2. For the sake of convenience, the rank of the parties are referred to in this Judgment as assigned in the plaint presented before the Trial Court.

3. The brief facts of the case are stated as hereunder for the purpose of appreciating the rival legal contentions urged on behalf of the parties with a view to answer the same in this judgment.

The case of the plaintiffs is that they have leased out the suit schedule property to the defendants on a monthly rent of Rs. 1,100/- and the defendants have not paid the rents from 1.3.1995 to 1.6.1995 amounting to Rs. 3,300/-. On 9.6.1995 they got issued a quit notice to the defendants calling upon them to vacate and deliver vacant possession of the suit schedule premises to them after expiry of the date mentioned therein. Since the defendants did not comply with the demand made in the notice, HRC. No. 1695/95, was filed by them which came to be dismissed, in view of revival of Section 31 of Karnataka Rent Control Act, 1961 (now repealed). The plaintiffs got issued another quit notice dated 18.5.1999 to the defendants by determining the tenancy in respect of the suit premises and called them to pay the arrears of rent payable in respect of the same for three years amounting to Rs. 38,500/-. Further stated that despite determination of the contractual tenancy, the defendants did not vacate and deliver vacant possession of the premises and failed to pay the arrears of rent to the plaintiffs and continued in unauthorized occupation and therefore they are entitled for mesne profits. Therefore they filed the original suit for grant of judgment and decree of ejectment against the

defendants and to order for payment of Rs. 38,500/- towards the arrears of rent of three years and also prayed for awarding mesne profits from the date of termination of tenancy till the delivery of possession of the suit premises to the plaintiffs.

4. The defendants entered appearance through their Counsel and filed written statement contending that they are not the tenants under the plaintiffs, however, admitted the rate of rent as Rs. 1,100/-per month in respect of the premises in question. They denied that they are in arrears of rent and the allegation of collusion with one basavaraj as alleged in the plaint by the plaintiffs is also denied as incorrect. They claimed that they have paid the entires rents to the plaintiffs who have deliberately not issued receipts for having received the rents and they have committed the act of fraud on them. The plaintiffs' claim was restricted to a sum of Rs. 38,500/- itself shows that it is a fraudulent claim preferred by them, against the defendants. Defendants disputed the requirement of the suit premises for the plaintiffs need and requirement as pleaded and also disputed the tenancy month as stated in the plaint. It is further stated by them that neither notice was received by them nor the notice was affixed to the suit premises. According to the defendants, the tenancy month in respect of the suit premises commences from 1st day of each English calender month. It is contended that the suit is not maintainable in law and the Court fee paid on the plaint is insufficient. It is stated that plaintiffs have waived their right in terminating the tenancy in respect of the premises, thereby they have lost their right of filing the suit. Defendants have therefore prayed for dismissal of the suit with costs.

5. On the basis of the pleadings the Trial Court has framed the following issues:-

(1) Whether the plaintiffs prove termination of the tenancy of the defendants in accordance with law?

(2) Whether the plaintiffs are entitled for ejectment of suit property?

(3) Whether the defendants prove that suit is not maintainable as contended in para No. 10 of the written statement?

(4) Whether the plaintiffs further proves that defendants are in arrears of rent of Rs 38,900/- from 1.8.1996 to 1.8.1999?

(5) Whether the plaintiffs are entitled for future means profits from 1.7.99?

(6) Whether plaintiffs are entitled for interest at the rate of 12% per month on cost, rents, profits and damages?

(7) To want order decree?'

The case went for trial. On behalf of the plaintiffs, their GPA Holder was examined as P.W. 1 and got marked the documents Exs. P1 to P9. The defendants neither cross-examined him nor adduced rebuttal evidence in justification of their defence. The Trial Court on appreciation of pleadings, oral and documentary evidence on record, has answered issue Nos. 1,2,4 to 6 in the affirmative and issue No. 3 in the negative and consequently decreed the suit.

6. The defendants have questioned the correctness of the impugned judgment and decree in this appeal contending that the suit filed by the plaintiffs is not maintainable in law, as the suit schedule property is the property of the partnership firm namely M/s. M.N.R. Hoskote Construction, which is an unregistered firm and it was required to be registered under Section 69 of the [Partnership Act, 1932](#). In support of this contention, the learned counsel Mr. N.R. Nagaraj for the defendants has placed reliance upon the decisions of the Supreme Court reported in Seth Loonkarna Sethiya and Ors. v. MR. Ivane. John and Ors., AIR 1977(1) SCC 379 and also the decision of the Madras High Court reported in T. Savari Raj Pillai v. .S.S. Vastrad And Company, : AIR1990 Mad198 . Further, reliance is also placed by the Learned Counsel upon the decision of the Supreme Court reported in Janki Vashdeo Bhojwani and Anr. v. Indusind Bank Limited and Ors., ILR 2005 KAR 729 in support of his legal contention that GP. A. Holder on behalf of a party cannot appear as a witness on the basis of power of attorney executed in his favour.

7. In view of the aforesaid decision of the Apex Court, it is contended by the learned Counsel for the defendant that in the absence of evidence of the plaintiffs in the case and examination of their GP. A. Holder as a witness in the case to

prove their case, who is not competent to speak to the facts of the case as he had no personal knowledge of the facts pleaded and that he cannot be a substitute on their behalf. Therefore he contends that the Trial Court has committed an error in law by relying upon the evidence of the GPA holder who is examined as PW-1 in the original suit and recorded the findings on the contentious issues in their favour and granting the relieves in the impugned judgment and decree. Therefore he has contended that the same are vitiated in law and liable to be set aside. He has also placed reliance upon the decision of the Supreme Court reported in MAJOR General A.S. Gauraya and Anr. v. S.N. Thakur and Anr., : 1986 CriLJ1074 wherein the Apex Court has held that the decision of the Supreme Court is binding on all the pending proceedings and future proceedings. He has also placed reliance upon another decision of the Supreme Court reported in Indian Oil Corporation Limited v. Municipal Corporation and Anr., : [1995]3SCR246 wherein the Supreme Court has overruled the decision of the Madhya Pradesh High Court in the case of Municipal Corporation v. Ratnaprabha Dhanda, 1989 MPLJ 20 and laid down law that the earlier decision of the Supreme Court cannot be over-ruled even by a coequal Bench of that Court and further held that the Division Bench of the Madhya Pradesh High Court in its decision has acted in total misunderstanding of law of precedents and Article 141 of the [Constitution of India](#) in taking a view different from the view taken by the Supreme Court in its earlier decision. The learned Counsel for the defendants placing reliance upon the above referred decisions would submit that the findings and the reasons recorded in the impugned judgment by considering the evidence of the P. A. Holder of the plaintiffs is bad in law as the same is contrary to the observations made at paragraph 21 by the Supreme Court decision in the case of Janaki Vashdeo Bhojwani referred supra and therefore he contends that the impugned judgment is vitiated in law, as the Trial Court has erroneously accepted the evidence of P.A. Holder, who is not competent to depose evidence as a witness. Therefore the Counsel for the defendants has prayed for setting aside the impugned judgment and decree by allowing this Appeal and prayed for dismissal of this suit.

8. Lastly, it is contended by him that the impugned judgment and decree passed by the Trial Court is not sustainable in law for the reason that the defendants could not cross examine PW1 and adduce their evidence in support of their defence as

the first defendant became sick and she was bedridden. For the aforesaid reason they could not give instructions to their Counsel to prosecute their case before the Trial Court. Therefore the Trial Court has closed the case for recording of evidence and the case was set down for arguments on merits. He submits that at that stage the defendants were compelled to change their Counsel on record and he had argued the case on the basis of available material on record and the Court passed the impugned judgment and decree. Therefore, it is contended by him that the findings and the reasons recorded by the Trial Court on the contentious issues on the basis of one side evidence of the plaintiffs, which evidence could not be challenged for the reason stated supra and there is no rebuttal evidence on behalf of the defendants on record and therefore the findings recorded in the impugned judgment on the contentious issues is wholly unsustainable in law. Hence, they have sought for setting aside the impugned judgment and decree and requested this Court for remand of the case to the Trial Court to give an opportunity to them to cross examine PW1 and adduce their evidence in the case in justification of their defence.

9. The learned Counsel Mr. M.R. Vijaya Raghavan for the plaintiffs has rebutted the above legal contentions urged on behalf of defendants by urging the following contentions with regard to the maintainability of the suit it is contended by him that no plea in this regard is raised by the defendants in the written statement, but on the other hand, they have categorically admitted at paragraph (3) of the statement stating that they are tenants under the plaintiffs in respect of the suit schedule premises and that they have paid the rents to them and receipts are not issued by them for having received rents. With regard to the another legal contention urged on behalf of the defendants that the suit could not have been instituted by the plaintiffs, as the suit schedule property belongs to the partnership firm and it is unregistered and institution of the original suit by the plaintiffs is not maintainable in law is seriously contested by him contending that the above contention of the Learned Counsel placing reliance upon the decisions of the Apex Court and Madras High Court is wholly untenable in law. Therefore, he has prayed for dismissal of this Appeal by rejecting the above contention as the same is devoid of merit. Further he has justified the examination of the GP.A. holder of the plaintiffs as a witness in the case by placing reliance upon the provisions of Order 3 Rules 1

and 2, Order 18 Rule 2 CPC read with Section 120 of the Evidence Act and Section 182 of [Indian Contract Act, 1872](#), which provisions do not prohibit the GP.A. Holder of plaintiffs to examine himself as a witness in the case on their behalf in the suit under the authority given by them and adduce evidence with regard to the facts which are within his knowledge. According to the learned Counsel, the GP.A. holder in this case is the agent of the plaintiffs and therefore he is competent to examine himself as a witness in the case as he can do all such lawful Acts as an authorized agent pursuant to the authority given to him in the power of attorney executed by them in his favour. Further he submits that the reliance placed upon the decision of the Supreme Court in Janakivashdeo Bhojwani's case at paragraphs 20 and 21 by the learned Counsel for defendants is not tenable in law, for the reason that the Apex Court in that case has not laid down the law holding that the P.A. Holder on behalf of a party cannot be examined as a witness in the case though he has been given Authority in this regard after considering all the relevant provisions of the Acts referred to supra. Further he contends that the word 'Act' occurred in Order 3 Rule 2 Code of Civil Procedure read with Section 182 of the Contract Act, is neither raised nor argued or considered and answered by the Apex Court in that case after considering the above relevant provisions of the aforementioned enactments. Therefore he contends that the observations made at paras 20 and 21 in BHOJWANFS case cannot be construed as the binding precedent under Article 141 of [Constitution of India](#) to apply the said decision to the facts of this case. Non-examination of the appellant in that case before the Debt Recovery Tribunal, in view of its earlier direction issued to her, the case was examined with reference to the findings recorded by it to find out as to whether the order challenged in the said Appeal is either legal and valid or not. In the said case with reference to the observations made by the Rajasthan High Court and also the decisions of the Bombay High Court referred to in Bhojwani's case it has preferred to accept the observations made in the Rajasthan High Court case and has made certain observations at paragraph 21 stating that power of attorney holder cannot be examined as a witness on behalf of a party in a case and therefore he submits that the same shall not be construed as a binding precedent laid down in that case but for the reason that no statement of law as such is laid down by the Apex Court in the said case.

The learned Counsel for the plaintiffs contends that it is only an observation made in the case for affirming the order passed by the Debt Recovery Tribunal after accepting the findings recorded by it in view of the undisputed facts of that case. Therefore, he submits that the said decision is not a binding Authority to apply it to the facts of this case as contended by the defendant's counsel, hence the reliance placed upon that case is misplaced and need not be applied to the fact situation of this case. He has placed strong reliance upon the following decisions of the Supreme Court to show that the observations made in Janaki Vashdeo Bhojwani's case need not be applied to the facts of this case : [1971]3SCR9 . : [1992]198ITR297(SC) , : AIR 2003 SC724 , AIR 2004 SC 2890, AIR 2004 SC 4778 strong reliance is placed by him upon the decision reported H.M. Maharaja Dhiraja Madhav Rao Jivaji Rao Sindia Bahadur and Ors. v. Union of India, : [1971]3SCR9 in support of the proposition of law that it is difficult for the court to regard a word, a clause or a sentence occurring in a judgment of the Apex Court, divorced from the context, as containing a full exposition of the law on a question when the question did not even fall for consideration in that judgment and apply the same to the case on hand as a binding precedent. In support of the same proposition another case reported Commissioner Of Income-Tax v. M/s. Sun Engineering Works (P) Limited, : [1992]198ITR297(SC) is relied upon. Therefore, he submits that the contentions urged in this regard by the defendants Counsel by placing reliance upon the case of Janakivashdeo Bhojwani of the Apex Court and other decisions referred to in the earlier paragraph of this judgment with regard to the proposition the decisions of the Apex Court should be applied to this case as they are binding upon this court need not be applied to this case.

10. This Court with reference to the above rival legal contentions urged on behalf of the parties, has answered the same as hereunder:-

11. The contention regarding the maintainability of the suit as contended by the defendants counsel need not be examined by this Court for the reason that such a plea is neither raised in the written statement nor evidence is adduced in this regard by them before the trial court. Further, in view of the categorical findings recorded by the trial court on the contentious issues No. 1, 2 and 4 with cogent and valid reasons in the impugned judgment in favour of the plaintiffs. The the

legal contention urged by the learned Counsel on behalf of the defendants by placing reliance upon the decision of the Apex court and the Madras High Court that the original suit is not maintainable in law for want of registration of the partnership firm must fall to the ground in view of the undisputed fact of admission made by the defendants regarding the Jural relationship with the plaintiffs in respect of the suit premises and reliance placed upon the decisions are not applicable to the fact situation.

12. Insofar as the second contention urged by the learned Counsel for the defendants that the P. A. Holder of the plaintiffs is not competent person to examine as a witness in the case on behalf of the plaintiffs by placing reliance upon the decision of the Supreme Court, in the Janki Vashdeo Bhoja Wante's case, is examined by this Court with reference to the observations made in the said decision at paras 20, 21. This decision cannot be applied to the fact situation of this case for the reason that the Apex Court has not laid down the law as contended by the defendant's counsel in this regard. The learned Counsel for the plaintiffs has rightly place reliance upon the decision of the Constitutional Bench of 9 judges of the Supreme Court reported in H.M. Maharajadhiraja Madhavrao Sindhia 'S (supra) case, the relevant portion of the judgment at paragraph 138 reads as follows:-

'138. The Court was not called upon to decide and did not decide that Article 366(22) was a provision relating to a covenant within the meaning of Article 363. It is difficult to regard a word, a clause or a sentence occurring in a judgment of this Court, divorced from the context, as containing a full exposition of the law on a question when the question did not even fall to be answered in that judgment.'

(Emphasis supplied by the Court)

The same principle of law is re-iterated by the Supreme Court in another case reported in : [1992]198ITR297(SC) the relevant portion of which is extracted hereunder:-

'39. It is neither desirable nor permissible to pick out a word or a sentence from the judgment of this court, divorced from the context of the question under

consideration and treat it to be the complete 'law' declared by this Court. The judgment must be read as a whole and the observations from the judgment have to be considered in the light of the questions which were before this Court. A decision of this Court takes its colour from the questions involved in the case in which it is rendered and while applying the decision to a later case, the Courts must carefully try to ascertain the true principle laid down by the decision of this Court and not to pick out words or sentences from the judgment, divorced from the context of the questions under consideration by this court, to support their reasonings.'

The subsequent decisions of the Apex Court referred to supra in the earlier paragraph of this judgment, where the learned Counsel for the plaintiffs contentions are noted, upon which he has rightly placed reliance in support of his contention that GPA holder of the plaintiff is competent person to examine as a witness and speak to the facts of the case which are within his knowledge to prove the case and the same can be considered by the Court at the time of appreciation of evidence of the parties to record its findings. If, the evidence given by the power of attorney holder of a party is acceptable and proved the fact as required under the Evidence Act, the same cannot be ignored by the Court. In Janaki Vashdeo Bhojwani's case, no statement of law that GPA holder is not competent person to examine himself as a witness on behalf of a party on the strength of the Authority given to him in the power of attorney by the executant as contended by the defendants counsel is laid down by the Apex Court in that case. The learned Counsel for the plaintiffs has rightly placed reliance upon the decision of the Supreme Court in Madhav Rao Scindia 'S' case and another decision of Commissioner Of Income Tax v. Sun Engineering Works (P) Ltd. referred to supra in support of his contention that Court cannot 'pick a sentence or a word from the judgment of the Apex Court' divorced from the context and apply the same to the fact situation of the case either as binding precedent or obiter dicta. The legal principle enunciated in Madhavrao Scindia's case and another case referred to supra supports the contention urged on behalf of the plaintiffs in this case and the submission made by him on the basis of above case law is tenable and therefore the same must be accepted. In view of the foregoing reasons the observations made at para 21 in Jankivashdeo Bhojwani's case need not be applied to the fact

situation of this case.

13. In the instant case the GP. A. Holder of the plaintiffs is examined as a witness, and he has spoken to the necessary and relevant required material facts of the case which are in his personal knowledge by acting as an agent on behalf of the plaintiffs, which is permissible under the provisions of the power of attorney Act, Order 3 Rule 2 code of civil Procedure R/w Section 120 of Evidence Act, Section 181 and 182 of the Indian Contract Act. It is not the case of the defendants that PW1 in this case, who has acted as an agent of the plaintiffs was not given authority in the power of Attorney by them to adduce evidence as a witness in the case on their behalf. Therefore, the contention urged in this regard by the defendant's counsel is liable to be rejected and accordingly rejected.

14. For the foregoing reasons the reliance placed by the defendants counsel upon the decisions reported in : 1986 CriLJ1074 in support of the contention that the decision in the case of Janaki Vashdeo Bhojwani has to be applied as either binding precedent or obiter Dicta to the facts of this case, is wholly untenable in law and the said decisions do not apply to the case on Hand.- Hence the reliance placed upon the same by the defendants counsel is misplaced and cannot be applied to the case on hand.

15. With regard to the 3rd contention as to whether the defendants are entitled for a reasonable opportunity? and for this purpose the impugned judgment and decree has to be set aside and remand the case to the trial Court, is also examined by this Court with reference to the facts and grounds urged in the Memorandum of Appeal. The above said contention and request of the learned Counsel for the defendants has to be rejected for the following reasons The defendants were represented by their lawyer in the trial court, they have filed written statement. But they have not chosen to cross-examine P.W.1. The reason assigned in the memorandum of appeal by the defendants for not cross-examining P.W.-1 and not adducing evidence on their behalf for the reason that the first defendant was sick and bedridden and therefore she could not give instructions to her lawyer, is not acceptable to this court as the explanation offered by them is not tenable in law. In respect of the second defendant, no explanation is forthcoming

in the appeal memo as to why he did not given instructions to his lawyer to prosecute the case on their behalf before the trial Court. It is their further case that after P. W. 1 was examined, and thereafter the case was set down for arguments, they have engaged another lawyer and he has not chosen to file application to recall P. W. 1 for his cross-examination and sought permission to adduce rebuttal evidence on their behalf. It was the duty of the defendants to prosecute their case diligently before the trail court. Therefore, their request that they are entitled for a fair and reasonable opportunity in the case and for this purpose the case has to be remanded to the trail Court after setting aside the impugned judgment and decree is not tenable both on facts and in law and therefore the same cannot be accepted by this court.

16. On the basis of defence taken by the defendants in their written statement, the findings on facts are recorded by the trial Court on the contentious issues. Therefore, there is absolutely no merit in their case.

17. The trail Court has referred to the evidence of P. A. holder, who is examined as PW-1 in its judgment on behalf of the plaintiffs. He has filed the affidavit evidence before the trial court as permitted under Order 18 Rule 2 Code of Civil Procedure. He has stated that the defendants are the tenants under the plaintiffs in respect of the suit schedule property which fact is not disputed by them, and it is a monthly tenancy in respect of the suit schedule property, the tenancy of the same in favour of the defendants was terminated from 30-6-1999 by issuing legal notice on 18-5-1999 and that the defendants did not vacate and deliver vacant possession of the suit premises to the plaintiffs and therefore there was cause of action for the plaintiffs for institution of the original suit against the defendants. The Trial Court on appreciation of evidence on record, has accepted the evidence of P. W. 1 and held that quit notice issued for having terminated the tenancy in respect of the suit premises are served upon the defendants on 20-5-1999 and a copy of the notice was also pasted upon the suit premises to avoid further complication, and the suit was filed on 30-8-99 by giving more than 15 days notice to them. Further, the trial - Court has rightly accepted the documents marked in the evidence of PW-1 as Exs. P3 and P4- the certified copies of the sale deed, Ex. P5 the copy of the sanction plan, Ex. P6 tax paid receipt, Ex. P7- the certified copy of

the order passed in HRC. NO. 1695/96, Ex.P8 the office copy of the notice, Exs. P8(a) and (b) the postal acknowledgments and Ex.P9 is the UCP certificate.

18. At Paragraph 8.01 of the impugned judgment the Trial Court has made an observation that despite granting sufficient time to the defendants, they have failed to cross-examine P.W.1 and adduced evidence in support of their case and the evidence of P.W.1 stands unchallenged. The defence taken by them at paragraph (3) of the written statement is referred to in this judgment and it is held that the stand taken by them has been diluted into a clear admission that they are tenants under the plaintiffs in respect of the suit premises in view of the pleadings at paragraph 4 of the written statement, wherein they have specifically stated that the plaintiffs deliberately not issued the receipts for having received the rents paid by them in respect of the suit schedule property. Further the trial court after considering the defence taken by the defendants in the written statement that they did not receive the quit notice as per Ex.P8, is also considered and held that despite the fact that they have been served with the notice as per the postal acknowledgement, documents produced and marked in the case, they have taken an untenable stand that notices are not served upon them and therefore, the trial court has rightly held that the service of notices upon them is in accordance with the legal requirement as provided under Section 106(4) of [Transfer of Property Act, 1882](#) on the basis of the acknowledgments for having served upon the defendants marked as Exs. 8(a) and (b) produced by P.W.1 in his evidence, which is remained unchallenged. Added to this fact, Ex.P.9 is the Certificate of Posting, which document is not disputed by the defendants. The trial court has found that the address of the defendants mentioned in Exs.P8(a) and (b) and Ex. P9 and in the cause title of the plaint tallies. Therefore the evidence adduced by P.W.1 in justification of his claim is rightly accepted by the trial court for grant of the relief as prayed in the original suit.

19. The defendants have not adduced rebuttal evidence regarding the maintainability of the original suit. Therefore, the trial Court has answered the Issue Nos. 1 and 2 in favour of the plaintiffs. Further, for the reasons recorded at Paragraph(9) in the impugned judgment, on Issue Nos. 4 and 6 with regard to the arrears of rent as claimed by the plaintiffs for the period from 1.3.95 to 1.7.99

amounting to Rs. 67,200/- and for the reason of limitation, the claim of arrears of rent was restricted by them to only Rs. 38,500/-, which claim is accepted by the trial Court as correct and accordingly Issue No. 4 is answered in favour of the plaintiffs. Regarding the future mesne profits from 1.7.99 and interest at 12% per annum on such sum that would be adjudicated in the enquiry to be held in the Final Decree proceedings is held that the agreed rate of rent in respect of the suit schedule premises has not been paid by them without any cause or reason and therefore it has correctly awarded interest in arrears of rent in favour of the plaintiff by placing reliance upon the decision of this Court reported in ILR 1982 KAR 1421 in the case of Sikka and Sikka. In my considered view, the learned trial Judge has rightly passed the judgment and decree by recording the findings with valid and cogent reasons on the contentious issues on proper appreciation of legal evidence on record. The same are either shown by the learned Counsel for the defendants as erroneous or suffers from error in law. Hence, the impugned judgment and Decree do not call for interference in this Appeal. Therefore this Appeal must fail.

20. Accordingly, this appeal is dismissed.