

**Ramakrishna Reddi and anr. Vs. P. Dasa Muni Reddi and anr.**

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**Court :** Andhra Pradesh

**Decided On :** Feb-14-1972

**Reported in :** AIR1973AP33

**Judge :** Chinnappa Reddy, J.

**Acts :** [Limitation Act, 1963](#) - Sections 20(2)

**Appeal No. :** Appeal No. 262 of 1970

**Appellant :** Ramakrishna Reddi and anr.

**Respondent :** P. Dasa Muni Reddi and anr.

**Advocate for Def. :** M. Ramachandra Reddy and ;A. Bhujanga Rao, Advs.

**Advocate for Pet/Ap. :** E. Manohar and ;P. Rajagopala Rao, Advs.

**Judgement :**

1. The plaintiffs in O. S. No. 124 of 1969 of the file of the Court of the Additional Subordinate Judge, Chittoor are the appellants in this appeal. The suit was laid to recover a sum of Rs. 10,776 /- due on a promissory note dated 1-9-1962 for a sum of Rs. 7,000 /- executed by the two defendants. Ex. A-1 is the suit promissory note and it is signed by the defendants. It contains endorsements Exs. A-2 to A-8. Ex. A-2 is dated 1-3-1963 and it is signed by the first defendant. It shows that a sum of Rs. 420 /- was paid that day towards interest due under the promissory note. Ex.

A-3 is dated 1-7-1963. It is again signed by the first defendant and it shows that a sum of Rs. 280 /- was paid towards interest due under the promissory note. Ex. A-4 is another endorsement dated 1-12-1963 and made by the first defendant himself and it shows that a sum of Rs. 350 /- was paid towards interest due under the promissory note. Ex. A-5 is an endorsement dated 1-4-1964 signed by both the defendants and it recites that a sum of Rs. 280 /- was paid towards interest due under the promissory note. Ex. A-6 and A-7 are two endorsements dated 1-12-1964 and 1-4-1965 both signed by the first defendant and showing that a sum of Rs. 560 /- and another sum of Rs. 280 /- were paid on those dates towards interest due under the promissory note. The last of endorsements Ex. A-8 is dated 1-3-1968. It is once more signed by both the defendants and it recites that a sum of Rs. 5 /- was paid towards interest due under the promissory note.

The case of the plaintiffs was that each of the defendants when he signed the endorsements signed it for himself and the other defendant. The two defendants filed separate written statements contesting the suit. Each claimed that the other was the principal debtor and he was only a surety. Each of them also denied that the other person was authorised to make any endorsement acknowledging the payment or acknowledging the debt. The learned Subordinate Judge dismissed the suit on the ground that it was barred by limitation. He held that the last endorsement Ex. A-8 dated 1-3-1968 was made more than three years after the previous endorsement Ex. A-7 dated 1-4-1965. He was clearly wrong in coming to that conclusion because three years had not in fact expired from the date of Ex. A-7 by the date of Ex. A-8. The suit was therefore within the period of limitation. There can be no doubt that the suit was within time so far as the first defendant is concerned.

Sri A. Bujanga Rao learned counsel for the second defendant, however, urged that the first defendant was not authorised to make any endorsement as contemplated by Section 20(2) of the Limitation Act and therefore he was not bound by the endorsements made by the first defendant. He submitted that the suit was barred by limitation against the second defendant. Sri Bujanga Rao relied on the language of Section 20 (@) of the Limitation Act which says

'nothing in the said Ss. ( 18 and 19 ) renders one of several joint contractors, partners, executors or mortgages chargeable by reason only of a written acknowledgment signed by , or of a payment made by, or by the agent of, any other or others of them '.

2. Section 18 of the Limitation Act provides for the computation of a fresh period of limitation from the date of an acknowledgment. Section 18(2)(b) provides that an acknowledgment may be signed either personally or by an agent duly authorised in its behalf. Similarly, Section 19 provides for a computation and of a fresh period of limitation from the date of a payment on account of a debt, if the payment is made by the person liable to pay the debt or by his agent duly authorised in this behalf. Section 20(2) states

' nothing in the said Ss. ( 18 and 19 ) renders one of several joint contractors, partners, executors or mortgagees chargeable by reason only of a written acknowledgment signed by, or of a payment made by, or by the agent of, any other or others of them '.

Sri Bhujanga Rao's submission was that the first defendant was not duly authorised to make the payment and therefore the payment made by him was not binding on the second defendant. Sri E.Manohar, learned counsel for the appellants urged that the very fact that the endorsement dated 1.3.1968 was signed by both the defendants was sufficient to infer that the earlier endorsement which was signed by the first defendant only was signed by him on behalf of himself and on behalf of the second defendant. As far back as in 1915 construing S. 21 (2) of the Limitation Act, 1908 which was in pari materia with Section 20(2) of the Limitation Act of 1963 it was held by the Madras High court in Annamalai Pattar v. Natesa Iyer, AIR 1915 Mad 307 (1), that the circumstances that there was a series of endorsements, some signed by one and some signed by the other of two joint promisors was sufficient to infer that each joint promisor had authorised the other to make the acknowledgements so as to bind both. This decision was followed by Thiruvenkata chariar, J., in Rangasami v. Somasundaram, AIR 1928 Mad 173. That was a case where one of the earlier endorsements was signed by one of the joint promisors alone, while a later

endorsement was signed by both of them. The learned Judge held that the effect of the later endorsement was a ratification of the either endorsement of payment and that the only inference was that by their conduct, both of them, held themselves still bound by the promissory note by reason of two prior endorsements. These two decisions were subsequently followed by the Madras High court in two other decisions *Dev Sankar v. Fernandez*, AIR 1694 Mad 238 and *Kamakshi v. Rajaram*, (1969) 1, Mad LJ 454.

The principle laid down by the several single Judges of the Madras High court is also consistent with the principle laid down by the Full Bench of the Madras High court in *Veeranna v. Veera Bhadradaswami*, ILR 41 Mad 427 = (AIR 1919 Mad 1140 (FB) where it was observed:

'Direct evidence that one of several partners or co-contractors had authority to acknowledge liability or make payment so as to save limitation as against his partners or co-contractors is not necessary, but such authority can be inferred from surrounding circumstances, such as the position of other co-contractors or partners'.

3. As against these decisions *Sri Bhujanga rao*, relied on the decision of the Division Bench of the Madras High Court in *Thayammal v. Muthukumaraswami*, AIR 1929 Mad 881. That was a case where there was nothing to indicate that a mortgagee who made an endorsement was authorised to do so by all the mortgagees. It was not a case like the present one where the conduct of the parties in making subsequent endorsements clearly indicated that the prior endorsements were made by the persons making the endorsements on behalf of the both the joint promissors, *Sri Bhujanga Rao* also relied on a decision of a Division Bench of this court in *Ratanlal v. Commercial and Industrial Bank Ltd.*, : AIR 1965 AP349 . That was again a case where all the endorsements were made by only one person and there was nothing more from which it could be inferred that he was making the endorsements on behalf of all the joint promisors.

In the present case, the endorsements dated 1.3.1963, 1.7.1963 and 1.12.1963 were made by the first defendant alone. Then come the endorsement dated 1.4.1964 by both the defendants. There were then two endorsements dated

1.12.1964 and 1.4.1965 by the first defendant only and then came the last endorsement dated 1.3.1968 which was signed by both the defendants. The several, endorsements themselves afford intrinsic evidence of the authorisation of the first defendant to make payment and endorsement on behalf of both the promisors. The first plaintiff also asserted to the same effect in his evidence and his evidence was not contradicted by either of the defendants by going into the box. I, therefore hold that the suit is not barred against either of the defendants.

4. In the result, the Appeal is allowed with costs of both the courts, and the suit is decreed as prayed for.

5. Appeal allowed.

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