HC-KAR

NC: 2026:KHC:37035
RFA No. 2437 of 2023

CNR: KAHC010657922023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR

REGULAR FIRST APPEAL NO. 2437 OF 2023 (MON)

BETWEEN:

1. SRI. HARISHA K PALAN
   S/O. LATE. KRISHNAPPA PALAN,
   AGED ABOUT 47 YEARS,
   RESIDING AT NO.61/2 AND 67/10,
   FLAT NO.303, BRUNDAVAN APARTMENT,
   YESHWANTHAPURA INDUSTRIAL SUBURB,
   MAHALAKSHMIPURAM, BENGALURU-560022.

…APPELLANT

(BY SRI. VIJAY SHETTY B., ADVOCATE)

AND:

1. SWARNA LATHA R.
   W/O. LATE. M.V. KRISHNAMURTHY
   AGED ABOUT 52 YEARS,

2. SHREYAS GOWDA
   S/O. LATE. M.V. KRISHNAMURTHY
   AGED ABOUT 30 YEARS,

3. SHRESHTA
   D/O. LATE. M.V. KRISHNAMURTHY,
   AGED ABOUT 21 YEARS,

   ALL ARE RESIDING AT NO.1166/58,
   GROUND FLOOR, SHRESHTA, 5TH MAIN,
   A BLOCK, RAJAJINAGARA,
   BANGALORE – 560 010

…RESPONDENTS

(BY SRI. KESHAVA MURTHY C.N., ADVOCATE FOR R1 TO R3)

THIS RFA IS FILED UNDER SECTION 96 OF CPC, AGAINST THE JUDGMENT AND DECREE DATED 29.11.2023 PASSED IN OS.NO.6090/2021 ON THE FILE OF THE C/C LXIX ADDITIONAL CITY CIVIL AND SESSIONS JUDGE BANGALORE, DISMISSING THE SUIT FOR RECOVERY OF MONEY.

THIS RFA, COMING ON FOR FURTHER ARGUMENTS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR

ORAL JUDGMENT

The Regular First Appeal is filed by the appellant/plaintiff calling in question the judgment and decree passed in O.S.No.6090/2021 dated 29.11.2023 by the Court of LXIX Additional City Civil & Sessions Judge, Bengaluru (hereinafter referred to as the ‘Trial Court’ for short), whereby the suit filed for recovery of money is dismissed on the ground of limitation.

2. For the sake of convenience and easy reference, the parties are referred to as per their rankings before the Trial Court.

3. The case of the plaintiff is that the plaintiff was a tenant under defendant No.1 and husband of defendant No.1 is friend of plaintiff. The husband of defendant No.1 had sought for financial assistance from the plaintiff and therefore, the plaintiff has advanced loan amount of Rs.1,00,000/- on 20.12.2014, Rs.4,00,000/- on 01.12.2015 and Rs.5,00,000/- on 21.07.2016. In total, the plaintiff has paid a sum of Rs.10,00,000/- to the husband of defendant No.1 on three different occasions through account maintained by the plaintiff to the account of the husband of defendant No.1. Further, it is the case of plaintiff that the husband of defendant No.1 has repaid a sum of Rs.19,000/- on 11.01.2016 and Rs.1,00,000/- on 10.05.2019. Thus totally, the husband of defendant No.1 has repaid an amount of Rs.1,19,000/- to the plaintiff. Thereafter, the husband of defendant No.1 has not repaid the balance amount of Rs.8,81,000/-. It is further case of the plaintiff that the husband of defendant No.1 has issued a cheque for Rs.8,81,000/- drawn on Vijaya Bank on

30.10.2019. But said cheque was dishonored upon presenting to the bank. Therefore, the plaintiff has initiated proceedings under Section 138 of the NI Act before 22nd ACMM Court and after recording sworn statement, the said case converted into C.C. No.13007/2020. During the pendency of said criminal case, the husband of defendant No.1 died on 22.02.2021 leaving behind defendant Nos.1 to 3 as legal heirs who are wife and children of the deceased. Therefore, the cranial proceedings stood abated in view of death of husband of defendant No.1. Therefore, the plaintiff has filed suit for recovery of money against the defendants, who are wife and children of the deceased.

4. In response to the summons, the defendants have appeared and filed written statement and denied all the averments in the plaint. Further, defendants have taken defense that the suit filed is barred by limitation. Further, the defendants have claimed ignorance of

transactions that took place between the plaintiff and husband of defendant No.1. Further, taken defense that there was no occasion for the husband of defendant No.1 to borrow the money from the plaintiff. Therefore, submitted that the plaintiff has made a concocted story. It is further defense of the defendants that, during life time of husband of defendant No.1, he had acquired the property shown in the schedule through partition deed dated 22.02.2017 and after receiving the said property, the deceased husband of defendant No.1 has gifted the said property in favour of his daughter under registered gift deed. Therefore, defendant No.3 has become absolute owner of the property. Therefore, the defendants have denied all the averments made in the plaint. Hence, prays to dismiss the suit.

5. Upon the pleadings of the parties, the trial Court has framed the following issues:

1. *Whether the plaintiff proves late Sri. M.V.Krishnamurthy, husband of 1st defendant and father of other defendants due to pay an amount of Rs.8,81,000/- as on date of suit?*
2. *Whether plaintiff proves he is entitled to seek 9% interest per annum as claimed?*
3. *Whether defendants prove suit of plaintiff is barred by limitation?*
4. *What are the relief parties are entitled?*
5. *What order or decree?*

6. The plaintiff is examined as PW.1 and got marked the documents as per Exs.P1 to P20. The defendants have not examined any witness but have produced document evidence as per Ex.D1.

7. The trial Court upon considering the chronological events of loan transactions has held that the suit filed by the plaintiff is barred by limitation. The trial Court has reckoned the limitation for the first transaction of 23.12.2014 and held that the suit filed is after 7 years 2 months 13 days. Further considering second transaction of

01.12.15, held that the suit is filed after 5 years 11 months 11 days. Further trial Court held that there is delay of 5 years 3 months 11 days from the third transaction i.e., on 21.07.2016. Therefore, came to conclusion that the suit filed by the plaintiff is barred by limitation. Therefore, dismissed the suit.

8. Being aggrieved by the dismissal of the suit, the plaintiff has preferred the appeal by raising various grounds and learned counsel for the appellant/plaintiff in consonance with the grounds urged in the appeal, has submitted that the trial Court has committed an error in computing the period of limitation. It is argued that the husband of defendant No.1 has repaid an amount of Rs.19,000/- on 11.01.2016 and Rs.1,00,000/- on 10.05.2019. Therefore, when husband of defendant No.1 repaid an amount of Rs.1,00,000/- as per Ex.P.17, as per Section 18 of the Limitation Act, the limitation period ought to have been computed from 10.05.2019.

Therefore, the trial Court committed an error in dismissing the suit on the ground of limitation.

9. Further, submitted that when the documents evidence Exs.P1 to P20 prove that the plaintiff has given loan to husband of defendant No.1 on various occasions as discussed above that is through account maintained by both plaintiff and husband of defendant No.1 and husband of defendant No.1 during his lifetime, has repaid an amount of Rs.1,19,000/- which is nothing but admission of the husband of defendant No.1 that he has received loan amount from the plaintiff and this is not rightly considered by the trial Court resulting into erroneous judgment and decree in dismissing the suit. Therefore, submitted that the approach of the trial Court is perverse, illegal and hence, prays to allow the appeal and set-aside the judgment and decree passed by the Trial Court and decree the suit as prayed for. In support of his arguments, he has placed reliance on the following judgments:

1. *The judgment of the Hon'ble Supreme Court in the case of* ***IL & FS Financial Services Limited vs. Adhunik Meghalaya Steels Private Limited.***[1]
2. *The judgment of the Hon'ble Delhi High Court in the case of* ***Rakesh Gupta vs. Khoday India Ltd. & another.***[2]
3. *The judgment of the Hon'ble Delhi High Court in the case of* ***Rajesh Kumari v. Prem Chand Jain.***[3]
4. *The judgment of the Hon'ble Andhra Pradesh High Court in the case of* ***M/s. Electro Flame Ltd., Hyderabad v. M/s. Mittal Iron Foundry Pvt. Ltd.***[4]
5. *The judgment of the Hon'ble Supreme Court in the case of* ***Vinayak Purshottam Dube vs. Jayashree Padamkar Bhat & others.***[5]
6. *The judgment of the Hon'ble Bombay High Court at Panaji, Goa in the case of* ***Shri Carlota Fernandes vs. Mr. Mukund Shamba Naik & others***.[6]

10. On the other hand, learned counsel for the respondents/ defendants submitted that the suit is barred by limitation and it is correctly observed by the trial Court. Further submitted that as per Ex.P17-receipt, there is no mentioning of the amount of Rs.10,00,000/-. Therefore, whatever amount paid by the husband of defendant No.1 is different money but not towards the loan transaction

[1] Civil Appeal No.5787/2026
[2] CS(OS) 2150/2010
[3] AIR 1998 DELHI 80
[4] AIR 1998 ANDHRA PRADESH 203
[5] Civil Appeal No.7768-7769/2023
[6] 2004 0 Supreme(Bom) 455, 2007 2 GoaLR 368

alleged by the plaintiff. Therefore, in this context, Section 18 of the Limitation Act is not applicable. Further submitted that, the cause of action arose on the dates when the plaintiff has lent alleged amount to the husband of defendant No.1 and considering those dates, the suit filed by the plaintiff is barred by limitation and it is correctly appreciated by the trial Court. Hence, there is no need to make interference in the judgment and decree passed by the trial Court. Hence, prays to dismiss the appeal. In support of his arguments, he has placed reliance on the following judgments:

1. *The judgment of the Hon'ble Supreme Court in the case of* ***M/s. Airen and Associates vs. M/s. Sanmar Engineering Services Limited.***[7]
2. *The judgment of the Hon'ble High court of Judicature at Madras in the case of* ***M/s. Transchem Limited vs. M/s. Chouraria Wire Netting Industries.***[8]
3. *The judgment of this Court in the case of* ***The Bidar Urban Co-operative Bank Ltd. Vs. Mr. Girish.***[9]

[7] 2025 Supreme(Online)(SC) 6872
[8] 2010 Supreme(Mad) 2006
[9] Criminal Appeal No.200057/2016 dated 17.12.2020

4. *The judgment of this Court in the case of* ***S.S.Ramesh vs. K.Lokesh.***[10]
5. *The judgment of this Court in the case of* ***United Breweries Ltd. Vs. D.C.Srinivasa.***[11]
6. *The judgment of this Court in the case of* ***K.N.Raju vs. Manjunath T.V.***[12]

11. Upon hearing arguments of learned counsels from both the sides and on perusal of the materials available on record, the following points would arise for my consideration:

1. *Whether, under the facts and circumstances involved in the case, the suit filed by the plaintiff for recovery of money is barred by limitation?*

2. *Whether, under the facts and circumstances involved in the case, what is the date of reckoning for a cause of action to institute suit for recovery of money under Section 18 of the Limitation Act?*

3. *Whether, under the facts and circumstances involved in the case, plaintiff proves that the*

[10] Criminal Revision Petition No.287/2015 dated 16.08.2023
[11] 1988 ILR (Kar) 3117
[12] Criminal Appeal No.302/2010 dated 16.03.2018

defendants are liable to pay the amount of Rs.8,81,000/- to the plaintiff?

4. *Whether, the judgment and decree passed by the Trial Court requires interference?*

12. The Trial Court has dismissed the suit on the ground that the suit filed for recovery of money is barred by limitation. The trial Court has reckoned the date for computation of the limitation period of the dates of borrowing by the husband of defendant No.1. As per the case of the plaintiff, he has paid Rs.1,00,000/- on 23.12.2014 for the first time, for the second time, an amount of Rs.4,00,000/- was paid on 01.12.2015 and third occasion, the plaintiff has paid Rs.5,00,000/- on 21.07.2016 to the husband of defendant No.1. The Trial Court has reckoned these dates and computed the limitation period as the suit is filed after 7 years, 2 months 13 days from 23.12.2014. Therefore, held that the suit is barred by limitation. Further, the trial Court has computed

the date from 01.12.2015 and held that the suit is filed after 5 years 11 months and 11 days and computed the third event of date 21.07.2016 and held that the suit is filed after 5 years, 3 months and 11 days. Therefore, reckoning all these dates, the trial Court came to conclusion that the suit is barred by limitation.

13. The Trial Court has not considered the dates of events that the husband of defendant No.1 has repaid an amount of Rs.19,000/- on 11.11.2016 and further Rs.1,00,000/- on 10.05.2019. Exs.P1 to 3 are account extractions proving that the plaintiff has lent an amount of Rs.1,00,000/-, Rs.4,00,000/- and Rs.5,00,000/- respectively on the dates as above stated on three occasions to the account of husband of defendant No.1. Therefore, these accounts maintained in the bank of plaintiff prove the fact that the husband of defendant No.1 has withdrawn a sum of Rs.10,00,000/- on three occasions from the account of the plaintiff. When the husband of

defendant No.1 has not repaid the said amount, the plaintiff has got issued the legal notice to the husband of defendant No.1 as per Ex.P6 and the husband of defendant No.1 had replied to the legal notice admitting that he has received the amount from the plaintiff. Therefore, it is proved that the husband of defendant No.1 has received an amount of Rs.10,00,000/- from the plaintiff. Ex.P17 is the receipt executed by husband of defendant No.1 that he has repaid an amount of Rs.1,00,000/- to the plaintiff on 10.05.2019. The signatures of both plaintiff and defendants are found on Ex.P17, which is a receipt stating that the husband of defendant No.1 paid Rs.1,00,000/- to the plaintiff. Although the husband of defendant No.1 did not explicitly state that this payment was towards discharge of loan amount of Rs.10,00,000/-, and claims he only paid Rs.1,00,000/-, the payment was nonetheless executed through this Ex.P17-receipt. Ex.P4 is the original cheque issued by husband of defendant No.1 for Rs.8,81,000/-

and it is proved to be having issued by husband of defendant No.1. Therefore, it is proved that the husband of defendant No.1 has received an amount of Rs.10,00,000/- from the plaintiff and husband of defendant No.1 during his lifetime, has repaid an amount of Rs.1,19,000/- to the plaintiff and for remaining balance payment of Rs.8,81,000/-, the husband of defendant No.1 has issued cheque as per Ex.P4. The said cheque was presented to the bank but it was dishonored. Therefore, the plaintiff was constrained to initiate criminal proceedings under Section 138 of the Negotiable Instrument Act, 1881. But, during pendency of the said criminal case, husband of defendant No.1 died. Therefore, the said criminal case came to be dismissed as abated. Then, the plaintiff has filed a suit for recovery of money. Upon appreciating all these documents coupled with oral and documentary evidence placed by the plaintiff, it is proved that the husband of defendant No.1 has borrowed an amount of Rs.10,00,000/- from the plaintiff and has repaid an amount of Rs.1,19,000/- and balance amount due is Rs.8,81,000/- payable to the plaintiff.

14. Then, considering the aspect whether the suit filed by the plaintiff is barred by limitation is a question for consideration. Initially, the plaintiff has initiated criminal proceedings under Section 138 of Negotiable Instruments Act, 1881, upon bouncing of cheque of Rs.8,81,000/- as per Ex.P4. But, during midst of the trial, the husband of defendant No.1 died. Therefore, the plaintiff was constrained to file suit on 12.11.2021. Therefore, the question comes before this Court that whether the suit filed is barred by limitation. As per Article 24 of the schedule to the Limitation Act, the period of limitation is three years for recovery of money from the date when right to sue first accrues. It is the case of plaintiff that the husband of defendant No.1 has repaid Rs.1,19,000/- on 11.11.2016 and Rs.1,00,000/- on 10.05.2019. The trial Court has not considered these two dates of events.

Ex.P17 is the receipt that, husband of defendant No.1 has executed receipt for having paid Rs.1,00,000/- to the plaintiff on 10.05.2019. Therefore, in this context, Section 18 of the limitation is applicable.

15. The Hon'ble Supreme Court with respect to Section 18 of the Limitation Act in the case of ***IL & FS Financial Services*** stated supra at paragraphs 26 and 27 held as follows:

> *"26. The earliest pronouncement of this Court was in* Khan Bahadur Shapoor Fredoom Mazda v. Durga Prasad Chamaria and Others*, 1961 SCC OnLine SC 147. Justice P. B. Gajendragadkar (as His Lordship then was) while construing Section 19 of the Limitation Act, 1908 which is similar to* Section 18 *of the Limitation Act, 1963 held as under: -*
>
> > *"6. It is thus clear that acknowledgment as prescribed by* Section 19 *merely renews debt; it does not create a new right of action. It is a mere acknowledgment of the liability in respect of the right in question; it need not be accompanied by a promise to pay either expressly or even by implication. The statement on which a plea of acknowledgment is based must relate to a present subsisting liability though the exact nature or the specific character of the said liability may not be indicated in words. Words used in the*

acknowledgment must, however, indicate the existence of jural relationship between the parties such as that of debtor and creditor, and it must appear that the statement is made with the intention to admit such jural relationship. Such intention can be inferred by implication from the nature of the admission, and need not be expressed in words. If the statement is fairly clear then the intention to admit jural relationship may be implied from it. The admission in question need not be express but must be made in circumstances and in words from which the court can reasonably infer that the person making the admission intended to refer to a subsisting liability as at the date of the statement. In construing words used in the statements made in writing on which a plea of acknowledgment rests oral evidence has been expressly excluded but surrounding circumstances can always be considered. Stated generally courts lean in favour of a liberal construction of such statements though it does not mean that where no admission is made one should be inferred, or where a statement was made clearly without intending to admit the existence of jural relationship such intention could be fastened on the maker of the statement by an involved or far- fetched process of reasoning. Broadly stated that is the effect of the relevant provisions contained in Section 19*, and there is really no substantial difference between the parties as to the true legal position in this matter."*

(Emphasis supplied)

27. It will be clear from the above passage that an acknowledgment of debt merely renews the debt and does not create a new right of action. It is further essential that the acknowledgment must relate to a subsisting liability and must indicate the jural relationship between the parties such as that of debtor and creditor, and it must appear that the *statement is made with the intention to admit such jural relationship. It was also held that such intention can be inferred by implication from the nature of the admission and need not be expressed in words. It has also been held that in construing the words used in the statements, surrounding circumstances can always be considered and that Courts lean in favour of a liberal construction of such statements, though intention cannot be fastened by an involved or far-fetched process of reasoning."*

16. Therefore, applying the principles of law laid down by the Hon'ble Supreme Court with respect to Section 18 of the Limitation Act, the acknowledgement of debt made in writing by the husband of defendant No.1 through Ex.P17 – receipt extends the limitation period by renewing the existing debt, but it does not create a new cause of action. When husband of defendant No.1 has paid an amount of Rs.1,00,000/- and executed receipt - Ex.P17 that creates renewal of debt. Therefore, this acknowledgement of receipt further extends the liability of the husband of defendant No.1. Furthermore, the said receipt Ex.P17 is executed within the subsisting period of limitation from 21.07.2016. Therefore, Ex.P17 receipt

dated 10.05.2019 makes renewal of the debt so as to making the husband of defendant No.1 for payment to be made to the plaintiff and it creates liability on the husband of defendant No.1. Therefore, as per Section 18 of the Limitation Act, the suit filed by the plaintiff is within the period of limitation specifically, within 3 years from the date of Ex.P17 receipt, on which date the husband of defendant No.1 repaid an amount of Rs.1,00,000/-. Though in the said Ex.P17 there is no mentioning of discharge of loan amount of Rs.10,00,000/-, but the fact is proved that the husband of defendant No.1 repaid a sum of Rs.1,00,000/- to the plaintiff. Considering the acknowledgment/receipt dated 10.05.2019, the suit filed by the plaintiff for recovery of money is within the period of limitation. The trial Court has committed an error in not considering this Ex.P17 receipt. Thus, the findings given by the trial Court is perverse in nature and it is contrary to the evidence on record. Therefore, the suit filed is within the period of limitation. Hence, it is maintainable also as discussed above, the plaintiff has proved that he has lent an amount of Rs.10,00,000/- to husband of defendant No.1 and husband of defendant No.1 has repaid an amount of Rs.1,19,000/- to the plaintiff and balance amount is Rs.8,81,000/- payable by the husband of defendant No.1 and the defendants being wife and children of the deceased late M.V.Krishnamurthy, are liable to pay amount to the plaintiff.

17. It is the argument canvassed by the learned counsel for the respondents/defendants that Ex.P17 does not contain existing liability of Rs.10,00,000/- or some other amount. Therefore, Ex.P17 receipt is not coming within acknowledgment as per definition under Section 18 of the Limitation Act.

18. As discussed above, the husband of defendant No.1 admitted during his lifetime that he owed a liability of Rs.10,00,000/- to the plaintiff. Since, the husband of defendant No.1 admitted that an outstanding balance was

due to the plaintiff, the execution of the receipt – Ex.P17 relates back to the admission made by the husband of defendant No.1. Therefore, as discussed above, though it may not be expressly stated that Ex.P17 receipt was executed towards the discharge of an existing liability, the receipt relates back to the liability admitted by the husband of defendant No.1 during his lifetime. Therefore, in this circumstance and difference in factual matrix involved in the case, the judgment relied on by the learned counsel for respondents/defendants in ***M/s. Sanmar Engineering Services Limited*** stated supra is not applicable. Furthermore, the other judgments relied on by the learned counsel for the respondents/defendants are not applicable having found difference in factual matrix involved in the case. Further, learned counsel for the respondents/defendants relied on the judgments of this Court, which are delivered in the context of criminal case for the offence under Section 138 of Negotiable Instruments Act. Therefore, having found difference in factual matrix involved in the case, the above said citations are not applicable to the present case.

19. Therefore, the plaintiff has proved that the husband of defendant No.1 has owed an amount of Rs.8,81,000/- and he died during pendency of criminal proceedings under Section 138 of Negotiable Instruments Act. Therefore, the suit initiated by the plaintiff as against legal heirs of deceased – M.V.Krishnamurthy (husband of defendant No.1), who are wife and children of deceased, is maintainable and also the plaintiff has proved that the defendants are liable to repay the amount as claimed in the suit.

20. Learned counsel for the respondents / defendants submits that the defendants being legal heirs of the deceased – M. V. Krishnamurthy, who are wife and children of the deceased are not liable to pay the debt of the deceased. Placing reliance on Section 6(4) of the Hindu Succession Act, 1956, counsel argues that there is

no pious obligation on them, except to the extent of the personal estate of the deceased. Therefore, it is made clear that the plaintiff shall proceed only against the personal estate of the deceased for recovery of money, as the defendants are entitled to the benefit of Section 6(4) of the Hindu Succession Act, 1956.

21. Therefore, with the above reasons, I answer point No.1 in the ***negative***, point No.2 is answered that reckoning date is 10.05.2019 as cause of action to institute the suit and point Nos.3 and 4 in the ***affirmative***. Therefore, the appeal is liable to be allowed in part. In the result, I proceed to pass the following:

ORDER

1. The appeal is ***allowed-in-part***.
2. The judgment and decree passed in O.S.No.6090/2021 dated 29.11.2023 by the Court of LXIX Additional City Civil & Sessions Judge, Bengaluru is hereby ***set aside.***

3. The suit of the plaintiff is decreed in-part. The plaintiff is entitled to recovery of money of Rs.8,81,000/- (Rupees Eight Lakhs Eighty One Thousand Only) from the defendants along with interest at the rate of 5% p.a. from the date of 10.05.2019 till its realization.

4. By virtue of interim arrangement made by this Court, respondents/defendants have deposited an amount of Rs.8,81,000/-(Rupees Eight Lakhs Eighty One Thousand only) before this Court and if it is kept in Fixed Deposit, the same shall be released in favour of the appellant/plaintiff with interest accrued thereon calculating at the rate of 5% per annum.

5. Draw decree accordingly.

6. No order as to costs.

Sd/-
(HANCHATE SANJEEVKUMAR)
JUDGE

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List No.: 1 Sl No.: 44