

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4715 OF 2009
[Arising out of SLP(C) No. 742/2005]

REGISTERED PARTNERSHIP FIRM ... APPELLANT(S)

:VERSUS:

VALI MOHAMMAD ... RESPONDENT(S)

ORDER

Leave granted.

The core question which arises for consideration in this appeal is as to whether the respondent is a money lender within the meaning of the provisions of M.P. Money Lenders Act, 1934 (for brevity 'the Act'). Before us it is not denied or disputed that in the event it is held that the provisions of the said Act are applicable in the instant case, the impugned judgment must be sustained.

Ostensibly, the appellant is a partnership firm. It inter alia carries business in seeds, medicines, agricultural implements etc. The appellant, however, accepts that whenever a person is in need of money, plaintiff lends him the same. The learned Trial Judge opined that only because as and when loan is advanced to persons who approached the plaintiff-appellant therefor, the same would not mean that it is a money lender. The High Court, however, by reason

of the impugned judgment, noticing, inter alia, that the plaintiff himself has admitted in paragraph 10 of the cross-examination that he had given loan to about 60-70 villagers of Village Malvasa on interest at the rate of 2% per month, is itself a pointer that he is a money lender. It was, therefore, held that the provisions of Section 7 of the Money Lenders Act were attracted and in its conclusion the plaintiff was found entitled to a sum of Rs.16,650/- with interest at the rate of 6% per annum from the date of filing of the suit.

The appellant herein filed the aforementioned suit for recovery of a sum of Rs. 24,630/-. Indisputably, the suit amount was calculated on the basis of the interest charged from the defendant – respondent at the rate of 2% per month i.e. 24 per cent per annum.

Mr. H.K. Puri, learned counsel for the appellant has taken us through the evidence. From the evidence of the appellant's witness Shri Kantilal itself, it would appear that a separate account book is maintained which is known as debtors' book. He accepted that in that debtors' book, there were about 60-70 accounts. The debtors mentioned in the said book of account are villagers of Village Malvasa although the partners of the appellant firm have been living in Ratlam.

It has furthermore been brought on record that separate accounts are being maintained in respect of other persons who have not been produced before the Court. The partner of the appellant firm has furthermore accepted in his

evidence that when they go for recovery of money, accounts are written on a piece of paper, consisting bill No. and interest. As indicated hereinbefore, it has furthermore been accepted that whenever persons approach the appellant firm for loan, the same is granted. Plaintiff's partner Kantilal has admitted that he is a money lender. Consequently, the plaintiff would not be entitled to get the interest and cost of the suit as it has not complied with the provisions of Section 7 of the Act.

In view of the materials brought on record and having regard to the fact that the High Court has arrived at a finding of fact in exercise of its jurisdiction under Section 96 of the Code of Civil Procedure, we find no reason to differ therewith. Consequently, this appeal is dismissed with costs. Counsel's fee is assessed at Rs. 10,000/-.

.....J
(S.B. SINHA)

.....J
(DEEPAK VERMA)

NEW DELHI,
JULY 27, 2009.