IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

REGULAR FIRST APPEAL NO. 367 OF 2020 (MON)

BETWEEN:

SKANDA SAI MARKETING
#20/U, 1ST FLOOR,
3RD CROSS, MRR LANE
SJP ROAD CROSS
BENGALURU-560 002
BY ITS PROPRIETOR
SMT. VANI VIJAY
W/O K.C. VIJAYKUMAR
AGED ABOUT 42 YEARS

...APPELLANT

(BY SRI. NARENDRA BABU B.K, ADVOCATE)

AND:

KONDANDAPPA
PROP. SRI VENKATESHWARA
DRIP IRRIGATION SYSTEMS
KARANJIKATTE ROAD,
KOLAR 563101.

...RESPONDENT

(BY SRI. K. SOORAPPA,
SRI. C.S. VINOD,
SRI. G.V. SURESH, ADVOCATES)

Digitally signed by PANKAJA S
Location: HIGH COURT OF KARNATAKA

THIS RFA IS FILED UNDER SECTION 96 OF THE CPC, AGAINST THE JUDGMENT AND DECREE DATED 25.11.2019 PASSED IN OS.NO.1016/2017 ON THE FILE OF THE LXVI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU, DISMISSING THE SUIT FOR RECOVERY OF MONEY.

THIS APPEAL HAVING BEEN RESERVED FOR JUDGMENT ON 29.10.2026 COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

CAV JUDGMENT

This Regular First Appeal is filed by the appellant/plaintiff challenging the Judgment and Decree dated 25.11.2019 passed by the learned LXVI Additional City Civil & Sessions Judge, Bengaluru City (CCH-67), in O.S. No. 1016/2017, whereby the Trial Court, dismissed the plaintiff's suit for recovery of money, and proceeded to decree an unpleaded claim of the defendant directing the plaintiff to refund an alleged excess amount of Rs.4,41,844/-.

2. For the sake of convenience, the parties are referred to as per their respective ranking before the Trial Court. Appellant is the plaintiff-firm and respondent is the defendant.

3. The brief facts of the case are that the plaintiff is a firm dealing in PVC pipes and fittings, instituted the suit for recovery of a sum of Rs.2,58,156/- against the defendant. It is the case of the plaintiff that defendant was a regular customer who purchased goods worth Rs.16,17,156/- under

16 different invoices (Ex.P-1 to Ex.P-16) and maintained a running account. After giving due credit for payments made, return of defective goods worth Rs.80,000/-, and tempo charges of Rs.67,000/-, the plaintiff claimed an outstanding balance of Rs.2,58,156/-.

4. In response, the defendant appeared and filed a written statement denying the suit claim and asserting that no running account was maintained. The defendant contended that he had made excess payments amounting to Rs.20,72,000/- as against the total invoice value of Rs.16,17,156/-, and claimed that the plaintiff was liable to refund an excess sum of Rs.4,74,844/-. As urged in the appeal grounds, the defendant did not file any formal counter-claim under Order VIII Rule 6-A of C.P.C., paid no court fee, and no issue was framed by the Trial Court regarding the alleged excess payment.

5. During the trial, the proprietor of the plaintiff-firm was examined as P.W.1 and marked documents Ex.P-1 to Ex.P-22. The defendant did not adduce any oral evidence on his behalf, though account statements pertaining to Sri

Venkateswara Drip Irrigation System were marked as Ex.D-1 during the cross-examination of P.W.1.

6. The Trial Court, upon evaluating the oral and documentary evidence, held that the plaintiff failed to establish a running account or any outstanding balance, and accordingly dismissed the plaintiff's suit for recovery of money. However, despite explicitly noting that there was no formal counter-claim, no court fee paid, and no issue framed, the Trial Court proceeded to grant a decree in favour of the defendant, directing the plaintiff to refund an excess amount of Rs.4,41,844/- within 30 days, subject to the defendant paying court fee subsequently. Aggrieved by the judgment and decree, plaintiff has preferred this appeal.

7. Heard the learned counsel appearing for the appellant/plaintiff and the learned counsel appearing for the respondent/defendant.

8. The learned counsel for the appellant vehemently contended that the Trial Court committed a grave error of law in granting a money decree in favour of the defendant in the complete absence of a formal counter-claim under Order VIII Rule 6-A of the C.P.C., without payment of mandatory

court fee, and without framing any issue in that regard. It was submitted that once the plaintiff's suit was dismissed for want of proof regarding the balance due, the Trial Court would not have turned into a recovery forum and without a properly constituted counter-claim allowed the claim of the defendant. Further, he contended that the plaintiff has proved the transaction between the plaintiff firm and the defendant and the amount due from the defendant by placing sufficient documents. Despite that, the Trial Court held that there was no such transaction between the plaintiff and defendant and dismissed the suit of the plaintiff. Accordingly he prays to allow the appeal.

9. *Per contra*, the learned counsel for the respondent supported the impugned judgment, contending that the Trial Court had meticulously calculated the payments made by the defendants by placing reliance on Ex.D-1 and the admissions of P.W.1, and rightly exercised its power to grant justice to prevent unjust enrichment. He further submitted that, in pursuance of the decree, the defendant has also paid the court fee. On these grounds he prays to dismiss the appeal.

10. Upon evaluation of the rival submissions, the grounds urged in the appeal memo, and the materials on record, following points arise for consideration

> *1. Whether the Trial Court is justified in dismissing the suit of the plaintiff for recovery of money?*
>
> *2. Whether the Trial Court was justified in allowing the unpleaded claim of the defendant for refund of excess amount of Rs.4,41,844/-, in the absence of a formal counter-claim, court fee, and issues, particularly in the backdrop of answering Issue No.1 in the Nagative?*

11. I have given my anxious consideration to the findings recorded by the Trial Court. The Trial Court dismissed the plaintiff's suit upon holding that the plaintiff failed to prove the exact balance due under a running account.

12. On careful perusal of the cross examination of PW-1, she has categorically admitted that, other than the invoices at Ex.P-1 to P-16 no other invoices are pending for payment. Further she admitted the account statement at Ex.D1. During her cross examination she also deposed that she doesn't remember when exactly she has taken defective

goods worth of Rs.80,000/- from the defendant and after taking back the defective goods, she has not supplied goods to the defendant. The plaintiff also failed to produce the delivery notes corresponding to invoices at Ex.P1 to P-16. On perusal of the same, under the said invoices the total amount reflects Rs.16,17,156/-. According to plaintiff, she received Rs.10,92,000/- from defendant as per Ex.D1(a) to (j) and Ex.P17. However in the plaint the plaintiff failed to show Rs.7,00,000/- received by her from defendant under Ex.D1(c) to (i) and Ex.P17. As such her claim for balance amount of Rs.2,58,156/- is untenable and rightly rejected by the Trial Court. Accordingly the point No.1 is answered affirmative in favour of the defendant.

13. So far as point No.2 is concerned, the Trial Court explicitly observed in paragraphs 48 and 49 of its judgment that the defendant had *not* filed any specific counter-claim, that no issue was framed in that regard, and that no court fee was paid by the defendant. Despite noting these fundamental procedural and substantive bars which ordinarily preclude a court from granting any affirmative monetary relief—the Trial Court proceeded to decree the defendant's claim for refund of Rs.4,41,844/- by merely

observing that the other side had not produced citations barring such a course and that the defendant offered to pay court fee subsequently.

14. It is a settled principle of civil jurisprudence that a defendant can seek a monetary decree or set-off against the plaintiff only by way of a written statement containing a specific counter-claim in terms of Order VIII Rule 6-A of the C.P.C., upon which court fee must be paid at the time of institution or as directed, and issues must be framed to enable parties to lead evidence. A court cannot convert a defense into an active decree for recovery of money in favour of a defendant who has neither filed a counter-claim nor paid the mandatory court fee. Permitting a defendant to secure a decree based on defensive pleadings alone bypasses the mandatory provisions of the Court Fees Act and prejudices the plaintiff without a trial on a counter-claim. Therefore, the reasoning adopted by the Trial Court in granting a decree in favour of the defendant without pleadings, issues, or court fee is legally unsustainable, contrary to the canons of civil procedure.

15. Further on perusal of the judgment, the Trial Court has framed Issue No.1 as under

> *"1. Whether the plaintiff proves that defendant is regular customer with plaintiff and defendant used to purchase PVC pipes and fittings under different invoices and also maintain running account as alleged in the plaint?"*

Upon examination of the pleadings and evidences the Trial Court answered the above issue in negative. Thus it is clear that the Trial Court concluded that the defendant didn't use to purchase PVC pipes and fittings under different invoices and also maintaining a running account. However, the Trial Court proceeded to grant unclaimed relief in favour of the defendant by placing reliance at EX.P17, P18, Ex.D1(e) and D1(g) which are the statements and invoices pertaining to the transaction between the plaintiff and defendant. Hence, the relief granted to the defendant is contrary to the findings on Issue No.1.

16. Therefore, that part of the Trial Court's judgment and decree directing the plaintiff to refund the excess amount of Rs.4,41,844/- to the defendant cannot be

sustained in law and warrants interference by this Court. Accordingly point No.2 is answered in negative.

17. The appeal deserves to be allowed in part. Hence the following:

ORDER

1. The Regular First Appeal filed by the Appellant / Plaintiff is hereby ***allowed in part***.

2. The Judgment and Decree dated 25.11.2019 passed in O.S. No. 1016/2017 by the LXVI Additional City Civil & Sessions Judge, Bengaluru City (CCH-67), so far as it regards the direction to the plaintiff to refund excess amount of Rs.4,41,384/- to the defendant is hereby ***set aside*** by affirming rest of the judgment.

3. The Court fee, if any, paid by the defendant shall be refunded.

SD/-
(RAJESH RAI K)
JUDGE

PKS/V