

02-1997, whereby and whereunder the suit claim for damages and recovery of electricity charges paid for the months from June to August, 1988, was dismissed while granting decree for Rs.2,400/- towards rent for the month of September, 1988. 2. For convenience of reference, the ranks given to the parties in O.S.No. 127 of 1988 before the trial Court will be adopted throughout this judgment. 3. The plaintiff is the owner of suit schedule building and leased out the same to the defendant on monthly rent of Rs.2,400/- to run its bank for a period of 5 years in the month of August, 1985, with usual terms of agreement but no lease deed was executed. The main contention of the plaintiff is that the defendant caused damage to the building, removed 6 teakwood doors, damaged commode, mosaic flooring etc., and claimed damages of Rs.45,000/- towards damages since the defendant did not deliver the premises in the same given condition as agreed at the time of negotiation between the plaintiff and the defendant. It is also the further contention of the plaintiff that the defendant while vacating the premises did not pay electricity consumption charges for the months of June to August, 1988, and that the plaintiff paid the same to electricity department and now claimed recovery of the said amount. The plaintiff also claimed rent for the month of September, 1988, @ Rs.2,400/- p.m. As the defendant failed to handover the premises in good condition, the plaintiff himself issued Ex.A1 notice demanding delivery of possession of the property reserving his right to assess damage, if any, caused after opening doors of the premises. The defendant issued reply denying the same contending that keys of the premises were handed over to son of the plaintiff, as he was not available, in the presence of his wife. Thereafter, there was registered correspondence between the parties but the defendant did not pay the damages as claimed. Hence, the suit. 4. The defendant filed written statement denying material allegations inter alia contending that the defendant is a tenant under oral tenancy on a monthly rent of Rs.2,400/- and it was agreed between the parties that the defendant has to make necessary alterations to the building for its use and occupation to carry on banking business and delivered possession of the building as it was in 1985, denied its liability to pay damages to the building and also liability to pay rent and electricity charges for the months from June to August, 1988, and admitted about registered correspondence. However, in all the letters, the defendant denied its liability to pay any amount and finally prayed to dismiss the suit. 5. On the strength of the above pleadings, the trial Court framed the following issues: Issues: Whether the plaintiff is entitled for the rent of September, 1988? Whether the plaintiff is entitled to claim damages and if so, to what amount? To what relief? (extracted) 6. During the course of trial, on behalf of the plaintiff, P.W.1 was examined and got marked Exs.A1 to A15. On behalf of the defendant, D.Ws.1 and 2 were examined and got marked Exs.B1 to B3. 7. Upon hearing argument of both counsel and considering oral and documentary evidence on record, the trial Court disbelieved handing over of keys and delivery of possession of the premises to the plaintiff and also disbelieved damage caused to the building and nonpayment of electricity consumption charges for the months from June to August, 1988, and decreed the suit in part for Rs.2,400/- while dismissing part of the claim. 8. Aggrieved by the decree and judgment, the plaintiff, being unsuccessful, preferred this appeal challenging the decree and judgment on various grounds. The contentions urged before this Court both in the grounds of appeal and during argument are that the defendant caused extensive damage to the building though he is under obligation to deliver vacant possession of the premises in good condition, the defendant did not deliver the building in good condition and the trial Court failed to appreciate Ex.A12 letter in proper perspective. If the material on record is appreciated in proper perspective, the trial Court would have granted decree for the entire suit amount but committed an error in dismissing the suit. 9. Per contra, learned counsel for the defendant argued totally in support of the finding of the trial Court while contending that there was nothing on record to establish that the plaintiff paid electricity consumption charges for the months from June to August, 1988, and prayed to dismiss the appeal confirming the decree and judgment of the trial Court. 10. Considering rival contentions, perusing material available on record including decree and judgment under challenge and oral and documentary evidence, the points that arise for consideration are as follows: 1. Whether the defendant caused any damage to the building, if so, is the defendant liable to pay damages at Rs.45,000/-? 2. Whether the plaintiff paid electricity consumption charges of the premises let out to the defendant for the months from June to August, 1988, if so, is the defendant liable to refund the same to the plaintiff? 11. In Re. Point No. 1: Undisputedly, the plaintiff let out the building to the defendant bank to carryon its banking business by making necessary alterations to the building as evidenced by Exs.A11 and A12 on monthly rent of Rs.2,400/-. According to the defendant, the building is old building and necessary repairs were attended by the plaintiff at the time of letting out. However, the building was given to the defendant to make use of the same subject to convenience to carryon its banking business in the premises. No lease was executed between both the parties. Therefore, the lease is oral. 12. The plaintiff, though contended that the defendant removed 6 teakwood doors, caused damage to the windows, commode and mosaic flooring and assessed the damage at Rs.45,000/-, did not produce any evidence that, at the time of delivery, doors were fixed to doorframes and delivered possession of the building along with doors allegedly taken away by the defendant bank. So far as damage to the flooring and commodos is concerned, while carrying on business, there is every possibility of causing damage to the flooring due to wear and tear but no material is produced estimating the exact amount of damage sustained by the plaintiff for causing damage to mosaic floor allegedly by the defendant. In any view of the mater, in the absence of any evidence about delivery of the building along with 6 teakwood doors, it is difficult to accept the contention of the plaintiff that the building was delivered along with 6 teakwood doors fixed to the doorframes. The trial Court disbelieved the damage caused to the building after appreciating entire evidence on record. Even if Exs.A11 and A12 are accepted, they are only regarding estimation of material required for attending repairs and cement bags but those documents would not be helpful to plaintiff to establish the claim of damages. The plaintiff did not testify about the exact condition as on the date of delivery of premises and no other witness was examined to prove the exact condition of the premises at the time of handing over the same to the defendant. In the cross-examination of D.W.1 also, nothing was elicited about the condition of the building at the time of delivery to the defendant bank. In the absence of any evidence, it is difficult to accept the contention that the defendant caused damage to the building and commodos and took away 6 teakwood doors. 13. On close analysis of entire evidence, I find no iota of evidence to establish the exact damage caused to the building by the defendant at the time of delivery of premises to the plaintiff. The trial Court, after discussing entire material available on record including evidence of P.W.1 and D.W.2, accepted the contention of the defendant and concluded that no satisfactory evidence is brought on record to prove the plaintiff's claim regarding damages sustained by him. Even after discerning entire material on record, I find no iota of evidence to conclude that the defendant caused damage to the building and, thereby, liable to pay the same. Therefore, I find no ground to interfere with the finding of the trial Court. Accordingly, the finding of the trial Court is hereby confirmed holding this point in favour of the defendant and against the plaintiff. 14. In Re. Point No. 2: The plaintiff also claimed electricity consumption charges paid by him for the months from June to August, 1988, during the course of argument but the same was not pleaded in the plaint. When the plaintiff is contending that he paid electricity consumption charges for the building, which was in occupation of the defendant, for the months from June to August, 1988, it is for the plaintiff to produce at least demand notices and receipts evidencing payment of electricity consumption charges for the above three months but, admittedly, no piece of paper is produced evidencing payment of electricity consumption charges for the three months i.e. June to August, 1988. In the absence of proof of payment of electricity charges by the plaintiff, the plaintiff is not entitled to recover the same from the defendant. The plaintiff failed to establish his claim towards electricity consumption charges for the months from June to August, 1988, and the trial Court rightly declined to grant decree for the said amount. Even before this Court, no additional evidence is produced under Order 41 Rule 27 of the Code of Civil Procedure to substantiate the claim of the plaintiff that he paid electricity consumption charges for the above period. Hence, I find no material to establish the claim of the plaintiff for recovery of electricity charges. Therefore, I find no illegality either on facts or on law in the decree and judgment of the trial Court. Consequently, the finding of the trial Court is hereby confirmed holding this point in favour of the defendant and against the plaintiff. 15. In view of my finding on point Nos. 1 and 2, the appeal is devoid of merits and deserves to be dismissed. 16. In the result, the appeal is dismissed confirming the decree and judgment dated 25-02-1997 passed in O.S.No. 127 of 1988 on the file of the Court of I Additional District Judge, Chittoor. Pending miscellaneous petitions in this appeal, if any, shall stand dismissed in consequence. No order as to costs.

M.SATYANARAYANA MURTHY, J. Date: 05th June, 2015. JSK PAGE PAGE

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