

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

SECOND APPEAL No.1088 of 2012

JUDGMENT:

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The unsuccessful plaintiffs preferred this appeal under Section 100 of the Code of Civil Procedure, 1908 assailing the decree and judgment dated 13.07.2011 of the learned II Additional District Judge, Ranga Reddy District at L.B. Nagar passed in AS.No.261 of 2010 whereby the learned Additional District Judge while dismissing the said appeal had confirmed the decree and judgment dated 29.07.2010 of the learned I Additional Senior Civil Judge, Ranga Reddy District at L.B. Nagar in OS.No.240 of 1999 filed by the plaintiffs for perpetual injunction against the defendants.

2. I have heard the submissions of the learned counsel for both the sides. I have perused the material record.
3. In the grounds of appeal, the following substantial questions of law are raised.

- 1. Whether the appellate Court is justified in going into the question of title in a suit for permanent injunction, without there being any issue with regard to the title or in the absence of any point with regard to the title being framed by the appellate Court?**
- 2. Whether the appellate Court is justified in dismissing the appeal without considering various documents exhibits A1 to A43 filed on behalf of the plaintiffs in order to arrive at a conclusion that the plaintiffs were not in possession as on the date of filing the suit?**
- 3. Whether the appellate Court is justified in holding that the vendors of the plaintiffs have no concern with**

the property and that they are not having right, title or interest in the schedule property?

4. The learned counsel for the respondents argued that said questions are not involved in the appeal in view of the concurrent findings recorded by the Courts below.

5. The learned counsel for the appellants/plaintiffs would submit that the appellants had already instituted a suit OS.No.53 of 2013 on the file of the XIV Additional District Judge, Ranga Reddy District at L.B. Nagar for declaration of title and recovery of possession and that, therefore, the plaintiffs are working out their rights in the said comprehensive suit and that, therefore, cause in the instant appeal does not survive for adjudication and therefore, the appeal be dismissed as not pressed.

6. Recording the afore-stated submission of the learned counsel for the appellants/plaintiffs, the Second Appeal is dismissed as not pressed. No costs.

Miscellaneous petitions, pending if any, in this second appeal shall stand closed.

JUSTICE M. SEETHARAMA MURTI

10th June,, 2015
Vj/