

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

SECOND APPEAL No.776 of 2015

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JUDGMENT:

Heard Sri Subba Rao, learned counsel on behalf of learned counsel for the appellant in the second appeal.

The plaintiff is the appellant in the second appeal. He sought for a mandatory injunction, without first of all seeking any declaration. Consequently, both the Courts found the approach as infirm and dismissed the suit as well as the appeal preferred by the appellant herein. Realizing the serious lacuna in constituting the suit, Sri Subba Rao, learned counsel placed reliance upon the judgment rendered by this Court in **Kachana Padmavathi and another Vs. Proddatur Municipality rep. by the Commissioner and others**, wherein it was held as under:

“The Courts below have examined the matter from the proper perspective, and this court does not find any basis to interfere with the same. The Second Appeal is accordingly dismissed. It is, however, observed that it shall be open to the appellants, to seek the relief of declaration and other consequential reliefs, if they are so advised, and if it becomes otherwise permissible in law.”

He seeks a similar relief as is granted by this Court in **Kachana Padmavathi's case (Supra 1)**, as quoted supra.

Accordingly, preserving and granting the same relief as quoted supra, the second appeal stands dismissed. No costs.

Consequently, miscellaneous petitions, if any pending shall also stand dismissed.

JUSTICE NOOTY RAMAMOHANA RAO

04.12.2015

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