

HON'BLE SRI JUSTICE S. RAVI KUMAR

SECOND APPEAL No.1345 of 2010

JUDGMENT:

This second appeal is preferred challenging the judgment and decree dated 23.01.2002 in A.S.No.35 of 1999 on the file of Senior Civil Judge, Nandigama, whereunder the judgment and decree dated 08.07.1997 in O.S.No.1 of 1992 on the file of District Munsif, Jaggaiahpet, Krishna District, is confirmed.

2. Appellant is the unsuccessful defendant in both the Courts. Respondent herein filed suit for permanent injunction restraining appellant herein or any person claiming through him from interfering with the flow of waste water of plaintiff through ABCD mark drainage shown in the plaint plan. Trial Court on a consideration of evidence of PWs.1 to 3 and document Ex.A.1 proceedings of the Commissioner of Jaggaiahpet Municipality, who granted permission in favour of defendant-appellant for construction of a compound wall incorporating a condition that appellant should not object for the flow of waste water. Considering the same, trial Court granted decree in favour of plaintiff-respondent and the appellate Court confirmed the same.

3. Heard arguments.

4. Now the contention of appellant is that both the Courts failed to notice whether an individual is entitled for permanent injunction against the owner of the property, particularly when there is no easementary right.

5. I have perused the grounds shown as substantial question of law under Ground No.13. All the grounds referred as 'a, b &c' are only on factual aspects and no question of law is involved in this second appeal. Though advocate for appellant contended that on account of this waste water foul smell is emanating, which is causing much

inconvenience to appellant and passengers in the bus-station, the said contention cannot be decided which was not the issue before Courts below, since remedy of appellant is otherwise. When both Courts concurrently held that plaintiff has a right particularly in view of Ex.A.1-proceedings, I am of the view that there is absolutely no law involved in this case, particularly substantial question of law and that second appeal is liable to be dismissed.

6. Accordingly, second appeal is dismissed at admission stage.

7. Miscellaneous petitions pending, if any, shall stand closed. No costs.

S. RAVI KUMAR, J

30th November 2015.

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