

HON'BLE SRI JUSTICE R. SUBHASH REDDY

SECOND APPEAL No.201 of 2013

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JUDGMENT:

This appeal is filed under Section 100 CPC by the defendant in O.S.No.8 of 2009 on the file of the II Additional Junior Civil Judge, Vijayawada, aggrieved by the judgment and decree dated 26.03.2010, as confirmed by judgment and decree dated 20.11.2012 passed in A.S.No.106 of 2010, by the V Additional District Judge, Vijayawada.

2. The respondent-plaintiff is the owner of Flat No.104, Vijaya Raghava Towers, Satyanarayanapuram. He leased out the same to the appellant herein for residential purpose on a monthly rent of Rs.3,800/-, excluding electricity and other maintenance charges. After expiry of the lease period, by issuing quit notice, suit for eviction is filed. The appellant-defendant contested the matter. The trial court, by judgment and decree dated 26.03.2010, decree the suit and further directed the appellant-defendant to pay damages for use and occupation of the plaint schedule property at Rs.3,800/- per month from March, 2010 till he vacates the schedule property. As against the same, the appellant-defendant carried the matter in appeal before the V Additional District Judge, Vijayawada in A.S.No.106 of 2010. The said appeal is dismissed by judgment and decree dated 20.11.2012. Hence, this second appeal.

3. Heard learned counsel for the parties and perused the impugned orders.

4. In this appeal, it is submitted by the learned counsel for the appellant-defendant that the courts below have misconstrued the

evidence on record and ordered eviction. It is further submitted that, in any event, as the appellant-defendant is in search of an alternative premises, he may be granted one year time to vacate the schedule premises.

5. On the other hand, it is submitted by the learned counsel for the respondent-plaintiff that the suit is of the year 2009 and the same was decreed as early as on 26.03.2010 and the appellant-defendant has not raised any substantial question of law, which warrants interference in this appeal under Section 100 CPC. It is further submitted that in view of the concurrent findings recorded by the courts below, this appeal is fit to be dismissed and, further, the appellant-defendant is not entitled for any time for vacating, inasmuch as the suit was decreed as early as on 26.03.2010 by the trial court, which was confirmed by judgment and decree dated 20.11.2012, by the first appellate court.

6. Having heard the learned counsel for the parties, I have perused the judgment and decree in O.S.No.8 of 2009 and A.S.No.106 of 2010.

7. The appellant-defendant has taken the schedule premises belonging to the respondent on lease for residential purpose. After issuing quit notice, as the appellant has not vacated, suit is filed for eviction and the same is decreed, by ordering payment of damages. The first appellate court has re-appreciated the evidence on record and confirmed the findings of the trial court. In view of the concurrent findings recorded by the courts below, and, further, as there is no substantial question of law in this appeal, I find no merit in this appeal, so as to interfere with the judgment and decree dated 26.03.2010, passed in O.S.No.8 of 2009, by the II Additional Junior Civil Judge, Vijayawada, as confirmed by

judgment and decree dated 20.11.2012 passed in A.S.No.106 of 2010 by the

V Additional District Judge, Vijayawada.

8. The Second Appeal is accordingly dismissed. No order as to costs. However, as the suit is of the year 2009, further the appellant-defendant is in search of alternative accommodation, and, further in view of the fact that the schedule premises is leased out to the appellant-defendant towards residential accommodation, three months' time is granted to the appellant-defendant to vacate the schedule premises, subject to his filing an undertaking before the trial court that he will pay arrears of rent, before vacating the schedule premises.

As a sequel, miscellaneous petitions if any pending in the appeal stand closed.

R. SUBHASH REDDY, J

February 13, 2015
MRR