

HON'BLE SRI JUSTICE S. RAVI KUMAR

SECOND APPEAL No.509 of 2015

JUDGMENT:

This second appeal is preferred challenging judgment and decree dated 01.06.2015 in A.S.No.55 of 2009 on the file of III Additional District Judge, Karimnagar, where under judgment and decree dated 03.12.2009 in O.S.No.376 of 2006 on the file of the Principal Senior Civil Judge, Karimanagar, is confirmed.

2. Brief facts leading to this second appeal are as follows:

Respondent No.1 herein filed the above referred suit O.S.No.376 of 2006 seeking eviction of appellant and respondent No.2 herein, who are defendant Nos.2 and 1 respectively, contending that suit property was given on lease for running a saw mill for a period of ten years under a registered lease agreement dated 22.02.2005 and after expiry of lease period, notice of termination was given and as defendants have not vacated the premises, he sought for eviction and damages. The trial Court on consideration of pleadings and evidence, decreed the suit ordering eviction and that order was challenged before the III Additional District Judge, Karimnagar, and on a reappraisal of oral and documentary evidence, appellate Court confirmed the judgment and decree of the trial Court and dismissed the appeal. Against the concurrent findings of trial Court and appellate Court, present second appeal is preferred contending that both the Courts are not justified in computing the period of 15 days notice under Section 106 of the Transfer of Property Act, 1882, (for short, 'the Act') when the property was leased out for running a saw mill, which would come under manufacturing purpose, for which six months notice is required under the provisions of Section 106 of the Act.

3. Heard arguments.

4. Advocate for appellant submitted that when the property was leased out for running saw mill, which is admitted by PW.1 the same would come under the manufacturing unit, for which six months clear notice is contemplated under Section 106 of the Act, but here only 15 days notice was given and that is the substantial question of law involved in this second appeal, which has to be decided by this Court.

5. On the other hand, advocate for respondent No.1 submitted that saw mill cannot be treated as a manufacturing unit.

6. Advocate for appellant relied upon a decision in **John Augustine Peter Mirande and another v. N.Datha Naik** and also decision of Hon'ble Supreme Court in **Mohammad Laiquiddin and another v. Kamala Devi Misra (dead) by L.Rs. and others**, for the proposition that where manufacturing unit is leased out six months, clear notice is required; question of law can be raised on the pleadings and evidence even in a second appeal.

7. On the other hand, advocate for respondent No.1 relied on a decision in **Konda Venkateswarlu v. Venkadari Venkata Subba Rao**, for the proposition that saw mill is not a manufacturing unit.

8. I have perused the above referred three decisions and this Court in Konda Venkatewarlu's case, has considered the meaning of 'manufacture' and held that 'saw mill cannot be treated as a manufacturing unit' and in view of that decision, the contention of appellant with regard to six months notice as contemplated under Section 106 of the Act for lease in respect of manufacturing purpose cannot be accepted. Rulings of Hon'ble Supreme Court relied on by advocate for appellant have no application in view of the fact they are not for the proposition that saw mill would fall under manufacturing unit.

9. For these reasons, I am of the view that no substantial question of law is involved in this case to be decided by this Court in the second appeal.

10. Accordingly, this second appeal is dismissed at admission stage. However, appellant is granted two months time to vacate the premises.

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

S. RAVI KUMAR, J

19th November 2015.

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