

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Second Appeal No.319 of 2015

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Dated 12.06.2015

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Between:

Bommasani Mutyala Rao

...Appellant

and

Tunuguntala Harnath and another

...Respondents

Counsel for the Appellant: Mr.RK.Suri

Counsel for the respondents: None appeared

The Court made the following:

Judgment:

This Second Appeal arises out of the judgment and decree, dated 28-02-2015, in AS.No.32 of 2014, on the file of the Court of the learned XI Additional District & Sessions Judge,

Tenali.

The appellant has filed OS.No.24 of 2012 for multiple reliefs viz., eviction, mesne profits and recovery of damages in the Court of the learned Additional Senior Civil Judge, Tenali. The trial Court has dismissed the suit. Feeling aggrieved by the same, the appellant has filed AS.No.32 of 2014. By the judgment and decree, dated 28-02-2015, the lower appellate Court has partly decreed the suit by ordering eviction and awarding part of mesne profits and damages claimed by the appellant. Feeling aggrieved by the judgment of the lower appellate Court to the extent of denial of the remaining part of the mesne profits, the appellant has filed Second Appeal No.264 of 2015. However, he has filed the present Second Appeal questioning the decree of the lower appellate Court to the extent of denial of part damages.

In my opinion, when the appellant is aggrieved by the decree passed in a single Appeal with respect to different reliefs, he is entitled to maintain a common Second Appeal. It does not stand to reason for the appellant for not claiming the relief, which is claimed in the present Second Appeal, in the previous Second Appeal itself. The appellant cannot be permitted to split the causes and file separate Appeals against the common decree.

In this view of the matter, the present Second Appeal is not maintainable and the same is, accordingly, dismissed, however, with liberty to the appellant to seek appropriate amendment of the prayer in Second Appeal No.264 of 2015, by claiming the relief of damages also.

As a sequel to dismissal of the Second Appeal, SAMP.No.859 of 2015, filed by the appellant for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 12th June, 2015

LUR