THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

SECOND APPEAL No.47 of 2015

Dated: 20.03.2015

Between:

A.Ramakrishna.

.. Appellant

and

G.D.S.Sastry

.. Respondent

Counsel for the Appellant: Mr. V.Sai Kumar.

Counsel for the Respondent : Mr. J.Venudhar Reddy

JUDGMENT:

The unsuccessful defendant in O.S.No.2236 of 2009 on the file of the Principal Junior Civil Judge, Ranga Reddy District at L.B.Nagar, Hyderabad, who is also the appellant in A.S.No.236 of 2010 on the file of the IV Additional District Judge, Ranga Reddy District, filed this second appeal feeling aggrieved by the concurrent judgments of both the said Courts.

The facts relevant for adjudication of the second appeal are not in dispute. The appellant has been the tenant of the respondent herein, in respect of a residential house, since the year 2003. The initial rent was Rs.1,750/- per month and the same was being enhanced at the rate of Rs.200/- per month once a year. In December, 2008, the rent was Rs.3,000/- per month. However, it is the pleaded case of the respondent/plaintiff that at the time of filing of the suit by him, the rent was enhanced to Rs.5,000/- per month. The respondent has issued a notice, under Section 106 of the Transfer of Property Act, on 11.08.2009, seeking vacation of the suit premises, and the same was served on the sister of the appellant on 14.08.2009. As the appellant failed to vacate the premises, the respondent filed the above-mentioned suit for eviction. The trial Court by its above mentioned judgment partly decreed the suit by ordering eviction of the appellant, granting him two months' time from the date of the decree for vacating the premises. The relief of damages was, however, rejected by the trial Court. The trial Court has also, by the common judgment dated 18.04.2001, dismissed O.S.No.897 of 2009 filed by the appellant against the respondent for permanent injunction. Feeling aggrieved by the judgment and decree dated 18.04.2011 of the trial Court, the appellant has filed A.S.No.236 of 2010, which was dismissed by the IV Additional District Judge, Ranga Reddy District, by his judgment dated 16.09.2014. Assailing both these judgments, the unsuccessful defendant filed this Second Appeal.

Heard Mr.V.Sai Kumar, learned counsel for the appellant, and Mr. J. Venudhar Reddy, learned counsel for the respondent.

At the hearing, the only submission made by Mr.V.Sai Kumar, learned counsel for the appellant, is that as per the amendment brought out to Section 32 (c) of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960, the Rent Controller alone has jurisdiction to pass a decree of eviction in respect of buildings, the rent of which does not exceed Rs.3,500/- per month, in areas within Municipal

Corporation of the State and that, in the instant case, as the rent was only Rs.3,000/- per month at the time of filing of the suit, the trial Court has no jurisdiction to entertain the suit.

The appellant has not filed the pleadings before this Court. However, from the contents of the written statement, as extracted by the trial Court, it appears that the appellant has not raised the plea as to the lack of jurisdiction of the trial Court to entertain the suit. On the contrary, the trial Court has referred to the relevant contents of the written statement, which include the following:

> "In the month of July, 2009 the plaintiff demanded the defendant to pay an amount of Rs.6,000/- per month towards rent for the suit premises or else to vacate the premises. The defendant requested the plaintiff to accept rent of Rs.4,000/- per month, but the plaintiff refused and threatened the defendant with dire consequence if he fails to vacate the suit premises."

From the above extracted contents of the written statement, it is quite evident that it is the pleaded case of the appellant himself that he has accepted the monthly rent at Rs.4,000/- in July, 2009 itself. The plaint was presented on 29.10.2009. Thus, by the date of filing of the suit, the admitted rent was Rs.4,000/- per month. Hence, the submission made by the learned counsel for the appellant that the civil court has no jurisdiction to entertain the suit is wholly untenable. No other submission is made by learned counsel for the appellant.

For the above-mentioned reasons, I do not find any substantial question of law arising in the Second Appeal.

Learned counsel for the appellant requested for reasonable time for his client to vacate the suit premises. Considering the fact that the suit was filed in the year 2009 and the appellant had the benefit of being in occupation of the suit premises for six years during the pendency of the suit as well as the appeal, I feel it appropriate that allowing three months' time for vacating the suit premises will meet the ends of justice. Accordingly, the appellant is permitted to remain in possession for a period of three months from today. In the event the appellant does not vacate the premises on the expiry of the said period, the respondent shall be free to execute the decree for eviction.

Subject to the above observations, the Second Appeal is dismissed.

As a sequel, S.A.M.P.No.148 of 2015, filed for interim relief, is disposed of as infructuous.

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JUSTICE C.V.NAGARJUNA REDDY

20th March, 2015

v v