

THE HONB'E JUSTICE CHALLA KODANDARAM

SECOND APPEAL No.754 OF 2016

JUDGMENT:

The second appeal is filed questioning the judgment and decree dated 18.07.2016 passed by the I Additional District Judge, Nellore in A.S.No.30 of 2014.

Heard the learned counsel for the appellant and Ms. K. Sumathi, learned counsel for the respondent.

The appellant is the tenant of the respondent and the lease for the premises is a month to month lease. Initially, the lease was granted in favour of the appellant for a period of three years. Infact, the lease expired in 2005 and thereafter the same was extended by mutual consent. However, when the appellant failed to pay the rents from 2008, the respondent filed a suit in O.S.No.564 of 2010 on the file of the III Additional Junior Civil Judge, Nellore seeking eviction of the appellant and after its full trial, the suit was decreed on 18.03.2014. Aggrieved thereby, the defendant filed an appeal in A.S.No.30 of 2014 on the file of the I Additional District Judge, Nellore and the same was dismissed by a judgment dated 18.07.2016. Questioning the same, the present second appeal is filed.

One of the grounds raised in the appeal is to the effect that a notice issued by the respondent under Section 106 of the Transfer of Property Act, 1882 (for short, "the Act") did not specifically states that the appellant is required to vacate the premises in question and as a matter of fact after issuance of the said notice seeking eviction, there was no termination of the lease.

A careful perusal of both the judgments of the Courts below does not disclose that any of such contentions having been raised by the appellant before the Courts below. There was no issue framed on that

aspect. However, it is an admitted and undisputed fact, as a matter of fact, a notice dated 28.04.2010 came to be issued under Ex.A.1 by the landlord to the appellant setting out all the details. The notice is sufficient and there is no separate termination notice is required and as such I do not see any reasons to entertain the second appeal and there is no substantial question of law involved in the second appeal.

However, the learned counsel for the appellant prays for some time for vacating the premises in question by the appellant. Considering the same and in view of the consent given by the respondent's counsel to allow the appellant to vacate and hand over the possession, four months time is granted to the appellant to vacate the premises in question. The appellant had also filed an affidavit before this Court giving undertaking to vacate the premises on or before 31.03.2017. Recording the undertaking given by the appellant and making it part of the record, the second appeal is required to be closed.

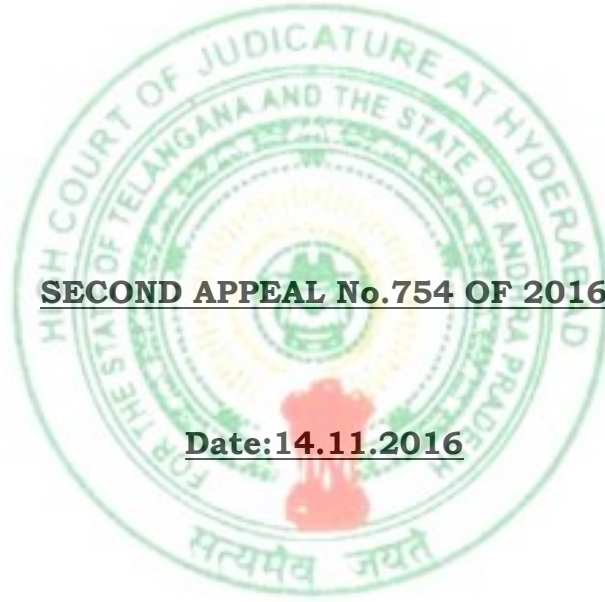
Accordingly, the Second Appeal is closed. No order as to costs.

Miscellaneous petitions, if any pending in this second appeal shall stand closed.

CHALLA KODANDA RAM,J

Date:14.11.2016,
Gk.

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