

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Second Appeal No. 785 of 2016

JUDGMENT:

The unsuccessful appellant/plaintiff filed this second appeal under Section 100 of the Code of Civil Procedure, 1908, assailing the decree and judgment dated 13.07.2016 of the learned VII Additional District Judge (Judge, Fast Track Court), Visakhapatnam, passed in A.S.No.165 of 2015.

2. I have heard the submissions of *Sri A.S.C.Bose*, learned counsel for the appellant/plaintiff and *Sri M.Balasubrahmanyam*, learned counsel for the respondent/ defendant. I have perused the material record.

3. The facts, in brief, are as follows:

The plaintiff brought the suit for perpetual injunction in respect of the suit schedule property. The defendant, while resisting the suit of the plaintiff made a counter claim and sought the relief of eviction against the plaintiff from the suit schedule property. The trial Court, while dismissing the suit of the plaintiff, decreed the counter claim of the defendant. By the judgment impugned in this second appeal, the Court below, while dismissing the first appeal, confirmed the decree and judgment of the trial Court and directed the appellant/plaintiff to vacate the suit schedule premises on or before 16.08.2016.

Aggrieved thereof, the plaintiff preferred this Second Appeal.

4. This Court on 30.09.2016, having noticed that the concurrent findings recorded by the Courts below do not call for any interference as there are no substantial questions of law involved in the second appeal, posted the appeal for hearing only on the aspect of granting reasonable time for the appellant/plaintiff to vacate the premises.

5. When the matter is listed today, learned counsel for the plaintiff/appellant sought eight months time for the plaintiff to vacate and handover vacant peaceful possession of the suit schedule premises to the defendant on the ground that it is a commercial premises and that the plaintiff is carrying on business in pearls and that he needs that much of time to find out alternative accommodation.

6. Learned counsel for the defendant would submit that a reasonable time of four months is sufficient and prayed for granting a reasonable time.

7. Having regard to the facts and the submissions of the learned counsel for both the sides, the Second Appeal is dismissed confirming the decree and judgment impugned in the second appeal. However, the appellant/plaintiff is granted time till 30.06.2017 for vacating and delivering vacant peaceful possession of the suit schedule property to the defendant. It is made clear that during the said period and till the plaintiff vacates the property, he shall continue to pay the rents due and payable regularly every month without fail. The plaintiff is directed to give advance notice to the learned counsel for the defendant and file an undertaking affidavit before the trial Court undertaking to vacate the property as directed in this judgment, within two weeks from the date of receipt of a copy of this judgment. No costs.

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

M. SEETHARAMA MURTI, J

09th December 2016

Note:- Issue CC by 13.12.2016
(B/o)
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