

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT

SECOND APPEAL No. 858 OF 2016

JUDGMENT:

Vide the present Second Appeal, the appellant has challenged the judgment dated 23.09.2016 passed by the Senior Civil Judge, Bapatla, whereby A.S. No.17 of 2012 was dismissed with costs by confirming the decree and judgment dated 30.03.2012 passed in O.S. No.43 of 2009 on the file of the Principal Junior Civil Judge, Ponnur. As a result, A.S. No.18 of 2012 was partly allowed by setting aside the decree and judgment in O.S. No.271 of 2006 on the file of the Principal Junior Civil Judge, Ponnur.

2. The question of law raised in the present appeal is, whether the Courts below have jurisdiction to entertain the suit O.S. No.43 of 2009 for eviction of the appellant, as the rent by the date of dispute was only Rs.1,500/-, in which event, the A.P.Buildings (Lease Rent and Eviction) Control Act, 1960 (for short, 'the Act'), is applicable.

3. Sri Raja Reddy Koneti, learned counsel appearing on behalf of the appellant, submits that the appellant filed suit, vide O.S. No.271 of 2006, whereby sought direction thereby directing the respondent herein not to evict the appellant without due process of law. Thereafter, in the year 2009, the respondent filed suit O.S. No.43 of 2009 whereby, sought eviction of the premises on the ground that the appellant stopped to pay the rent of the said premises.

4. Learned counsel further submits that in the year 2006, the respondent admitted the rent of Rs.1,500/-, therefore, the suit filed by the respondent, vide O.S. No.43 of 2009, is barred under the provisions of the Act. Accordingly, the respondent was supposed to file a suit under Section 4 of the Act for enhancement, which they failed to do, however, they filed the suit for eviction before the Civil Court.

5. He submits that the decree dated 23.09.2016 is liable to be set aside only on the sole ground as argued above.

6. On the other hand, Sri Ghanta Sridhar, learned counsel appearing on behalf of the respondent, submits that in the year 2006, no doubt, the rent was Rs.1,500/-, however, it is an admitted fact that for every two years, 20% was the increase and the suit was filed in the year 2009. Thus, if the increase is to be considered, that comes to Rs.2,150/-.

7. The fact of increase of rent at 20% is not disputed by the learned counsel for the appellant. However, counsel for the appellant submits that the respondent-plaintiff was supposed to file the case under Section 4 of the Act for enhancement of rent by adding 20% increase, but he failed to do so. Thus, petition filed by the respondent is without jurisdiction.

8. The submission of the learned counsel for the appellant has no weight for the reason that it is an admitted fact that rent in the year 2006 was Rs.1,500/-. It is also admitted fact that the increase was 20% after two years. Therefore, if the increase would be reckoned from the year 2006, if that is

questioned, from the year 2009, it would come to Rs.2,150/- per month.

Thus, I find no merit in the instant appeal.

9. Accordingly, the instant appeal is dismissed. There shall be no order as to costs. As a sequel, miscellaneous petitions, if any pending in this appeal, shall stand closed.

SURESH KUMAR KAIT, J

DATE : 14.11.2016

Note: Issue cc in three days

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