

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

SECOND APPEAL NO. 462 OF 2016

JUDGMENT:

This Second Appeal under Section 100 of CPC is filed by the appellant/tenant challenging the judgment and decree passed by the trial Court in O.S.No. 736 of 2013 on the file of X Junior Civil Judge, City Civil Court, Hyderabad as confirmed by the appellate Court in A.S. No. 53 of 2015 whereby the appellant/tenant herein was directed to vacate and deliver the vacant possession of the suit schedule property within a specific date.

2. The respondents herein filed a suit for eviction after issuing notice under Section 106 of Transfer of Property Act, 1882 (for short 'the Act'). The appellant/defendant admitted the jural relationship of landlord and tenant and the only contention raised before this Court is that during subsistence of tenancy for another four years, the landlord is not entitled to determine the tenancy by issuing notice, since, extension of lease was admitted in the cross-examination. The question of issuance of notice terminating the tenancy or determining the tenancy would arise only during subsistence of lease. If the lease is expired by efflux of time, the question of issuance of notice under Section 106 of the Act does not arise. The trial Court and the appellate Court after considering the evidence on record, have rightly accepted the determination of tenancy or termination of tenancy by issuing notice under Section 106 of the Act. Hence, I find no question of law much less a substantial question of law to admit the appeal and the appeal is liable to be dismissed.

3. At this stage, counsel appearing for appellant/tenant sought one year time to vacate and deliver the vacant possession of the suit schedule premises but counsel for the respondents/landlord requested this Court to grant four months time.

4. After taking into consideration the nature of business, I find that it is a fit case to grant 8 months time to vacate and deliver vacant possession of the property.

5. Accordingly, the appellant/tenant is directed to vacate and deliver vacant possession of the property within eight months from today and shall continue to deposit rent of Rs. 7,000/- per month to the credit of O.S.No. 736 of 2013, on or before 5th of every month till the delivery of vacant possession. In the event of failure to deposit the amount for any month, the time granted to the appellant/tenant shall deemed to be ceased to operate and the respondents/landlord herein are entitled to evict the appellant/tenant by filing an execution petition. For damages, if any, for use and occupation of the suit schedule premises, the trial Court is directed to dispose of the application, if any, filed by the respondents/landlord for payment of damages.

6. With the above direction, the Second Appeal is dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, pending if any, shall stand closed.

JUSTICE M.SATYANARAYANA MURTHY, J

Date: 22.08.2016

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