

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

SECOND APPEAL No.1435 of 2012

JUDGMENT:

The unsuccessful plaintiff through out preferred this Second Appeal under Section 100 of Code of Civil Procedure (for short 'CPC') challenging the decree and judgment in A.S.No.02 of 2004 on the file of VI Additional Metropolitan Sessions Judge-cum-XX Addl. Chief Judge, Secunderabad, whereby the appellate Court confirmed the findings of the trial Court in O.S.No.910 of 1998 on the file of I Junior Civil Judge,City Civil Court, Secunderabad, dismissing the suit holding that the suit is premature.

2. The plaintiff filed the suit challenging the preliminary Notice dt. 13.08.1998 issued by the defendant/Cantonment Board, Secunderabad under Section 185 of Cantonment Board Act, 1924(Old Act).

3. The defendant raised a specific plea that the suit is premature and accepting the contention of the defendant, both the Courts below dismissed the suit.

4. Challenging the decree and judgment of the Court below, the appellant/plaintiff filed this Second Appeal. In fact, against the preliminary Notice, the plaintiff is entitled to file her representation and thereafter a final Order will be passed. But, without exhausting statutory remedy, the appellant/plaintiff approached the trial Court seeking permanent injunction against the defendant/Cantonment Board. Therefore, the suit is premature, as held by the trial Court, confirmed by the Appellate Court.

Therefore, I find no substantial questions of law to be decided by this Court while exercising power under Section 100 of CPC.

5. Hence, this Second Appeal is dismissed, at the stage of admission, confirming the findings recorded by the trial Court in O.S.No.910 of 1998 on the file of I Junior Civil Judge, City Civil Court, Secunderabad, confirmed by the Appellate Court in AS.No.02 of 2004 on the file of VI Additional Metropolitan Sessions Judge-cum-XX Additional Chief Judge, Secunderabad. No costs.

As a sequel, miscellaneous petitions, if any, pending in this case, shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 26-08-2016.

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Dt. 26-08-2016

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