

**HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**S.A.No.669 of 2016**

**JUDGMENT:**

This Second Appeal is preferred challenging the judgment and decree dt.20-04-2016 in A.S.No.80 of 2014 of the III Additional District Judge, Bhimavaram confirming the judgment and decree dt.15-04-2014 in O.S.No.135 of 2008 of the Senior Civil Judge, Bhimavaram.

2. The appellant herein is the defendant in the suit. The respondent/plaintiff filed the suit against the appellant for recovery of a sum of Rs.4,22,000/- towards arrears of rent for the period from 01-06-2005 to 31-03-2008 @14,000/- per month and costs.

3. The respondent contended that he is the owner of the plaint schedule property which was leased in favour of the appellant for an amount of Rs.12,500/-, that it was enhanced to Rs.14,000/-, and the defendant did not pay the rent at that rate from 01-06-2005 to 31-03-2008.

4. The appellant filed Written Statement denying the allegations of the respondent that the rent was Rs.14,000/- or Rs.12,000/- and stated that the rent was only Rs.1250/-. He alleged

that he was depositing the rent in the bank account of the respondent in the Corporation Bank and there are no arrears of rent to be paid.

5. Another suit O.S.No.153 of 2005 was filed by the respondent against the petitioner for eviction and for recovery of possession.

6. Both suits were clubbed and tried together by the Senior Civil Judge, Bhimavaram.

7. The respondent examined P.Ws.1 and 2 and appellant examined DWs.1 to 3. The respondents marked Exs.A-1 to A-15 while appellant marked Exs.B-1 to B-27.

8. The trial Court dismissed suit O.S.No.153 of 2005 for eviction but decreed O.S.No.135 of 2008.

9. The trial Court held that though in Ex.A-6 registered lease deed executed by the appellant in favour of the respondent, the quantum of rent was mentioned as Rs.1250/-, in Exs.A7 and A-8, letters written by the appellant on 09-10-2004 and 01-01-2005, he had admitted that the quantum of rent is Rs.14,000/- per month and that having admitted this quantum of rent, now it is not open to him to dispute it. It also relied on a letter dt.10-11-2004 filed by the respondent in regard to which the High Court in C.R.P.No.1967 of 2013 held that agreed rent is Rs.12,500/-. It also relied on the

evidence of the son of P.W.1, that the rent was enhanced from Rs.12,500/- to Rs.14,000/-. Since there is no evidence for payment of rent at this rate for the period in question, it decreed the suit.

10. Challenging the same, the appellant filed A.S.No.80 of 2014 before the III Additional District Judge, Bhimavaram.

11. The said appeal was also dismissed by the lower appellate Court agreeing with the finding of the trial Court.

12. Challenging the same, this Second Appeal is filed.

13. Learned counsel for the appellant contended that in the income tax returns Exs.B-21 to B-27, the respondent had shown the monthly rent as only Rs.1250/- and on this basis, the trial Court and the lower appellate Court should have dismissed the suit. He also contended that as per Ex.A-6, the rent is only Rs.1250/- and so the Courts below committed an error in holding that the rent is Rs.14,000/- and that the appellant had not paid it.

14. Since the appellant has not disputed the fact that in Ex.A-13 scribed by him, rent is mentioned as Rs.12,500/- and the fact that in Exs.A-7 and A-8, he himself admitted that the rent is Rs.14,000/-, I am of the opinion that both the Courts rightly found that the rent was Rs.14,000/- per month. Since the appellant did not produce evidence in support of payment of rent at this rate for the

period from 01-06-2005 to 31-03-2008, they rightly decreed the suit. These concurrent findings of fact having given by the by both the Courts on appreciation of evidence in exercise of jurisdiction under Section 100 CPC, this Court is not inclined to interfere with the same, particularly, when there is no substantial question of law arising for consideration.

15. Therefore, the Second Appeal is dismissed. No costs.

16. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

Date: 12-09-2016  
kvr

**JUSTICE M.S.RAMACHANDRA RAO**

