

HON'BLE SRI JUSTICE S. RAVI KUMAR

SECOND APPEAL No.108 of 2000

JUDGMENT:

This second appeal is preferred against judgment and decree dated 10.11.1999 in A.S.No.10 of 1993 on the file of Senior Civil Judge, Kavali, whereunder judgment and decree dated 27.08.1992 in O.S.No.397 of 1986 is confirmed.

2. The appellants herein are defendants in the above referred O.S.No.197 of 1986, which is filed for the relief of permanent injunction. The trial Court on a consideration of oral and documentary evidence of both parties, decreed the suit and granted permanent injunction, questioning the said decree, defendants preferred appeal to the 1st appellate Court i.e., Senior Civil Judge, Kavali and 1st appellate Court on a reappraisal of the entire evidence on record, confirmed the judgment and decree of the trial Court and dismissed the appeal. Aggrieved by the same, present second appeal is preferred.

3. Heard arguments.

4. According to appellants, the substantial question of law involved in the second appeal is that the 1st appellate Court erred in not disposing of the application filed under Order XLI Rule 27 C.P.C. before disposal of the appeal.

5. As seen from the material, appellants herein also preferred C.R.P. against order dated 10.11.1999 in

I.A.No.140 of 1999 in A.S.No.10 of 1993, from which it is clear that application filed under Order XLI Rule 27 C.P.C. was simultaneously disposed of with the appeal by way of a separate order. Therefore, the objection of appellants that the appellate Court erred in not disposing of the application under Order XLI Rule 27 C.P.C. before dismissal of the appeal is not at all correct. Other substantial questions of law raised in the grounds are in respect of factual aspects, appreciation of evidence of both parties and so also about the validity of Ex.A.1. Unless there is a substantial question of law, second appeal cannot be admitted and with regard to the appreciation of evidence, unless the findings are perverse, the party has no right to file second appeal questioning the factual aspects. Though the second appeal is filed in the year 2000, it is still at the stage of admission and considering these aspects, I am of the view that there is no question of law involved, much less substantial question of law to consider the second appeal at this stage i.e., nearly 16 years after dismissal of the appeal.

6. For these reasons, second appeal is dismissed at admission stage.

7. Miscellaneous petitions pending, if any, shall stand closed. No costs.

S. RAVI KUMAR, J

15th June 2016.

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