

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

SECOND APPEAL No.861 of 2016

JUDGMENT:

Against the concurrent findings of the Court below, this second appeal is maintained by the appellant-tenant/defendant. The question of law claimed involved is whether the premises given on lease by the second appeal respondents/plaintiffs of their joint family properties for Rs.5,000/- by virtue of subsequent arrangement by directing to pay each Rs.2,500/- creates a separate independent tenancy for each for a rent of Rs.2,500/- and consequently by virtue of the amendment of Section 32 of A.P. Buildings (Lease, Rent & Eviction) Control Act, 1960, by Act 17 of 2005 can be applied to say it is covered by 2 leases with rent below Rs.2,500/- each and civil suit is not maintainable from its prospective operation as per the expression of the Apex Court in **Noorunissa Begum Vs. Brij Kishore Sanghi**¹. In fact that is not a substantial question of law to apply the provision as the two Courts concurrently held the lease is single and indivisible even an arrangement is made under the lease for payment of the rent instead of lumpsum for Rs.5,000/- equally among the 2 persons, the landlord. Thereby there is no split of lease into 2 leases much less of each below Rs.3,500/- per month.

Once such is the case, there is no need to admit the appeal but for from the understanding arrived in granting of 12 months time to the tenant with effect from 01.11.2016 to vacate on or before 31.10.2017, failing which by virtue of the concurrent findings of the Court below confirmed herein in dismissing the

¹ AIR 2015 SC 2322

second appeal before admission, the landlord to execute the decree by virtue of doctrine of merger and recovery of possession through due process of law. The tenant shall not sub lease but for to continue if at all in the one year period.

Subject to above observations, the second appeal is dismissed before admission.

Consequently, miscellaneous petitions, if any shall stand dismissed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 02.11.2016
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