

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

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SECOND APPEAL No.702 OF 2009

JUDGMENT:

Initially, appellant in A.S. No.146 of 1999 on the file of I Additional District Judge, Krishna at Machilipatnam, who is the defendant in O.S. No.30 of 1996 on the file of I Additional Junior Civil Judge, Machilipatnam, preferred revision against the Decree and Judgment dated 28.08.2006 passed by the first appellate court. It was numbered as CRP 894 of 2007 and later converted the said revision into second appeal, whereby the Decree and Judgment of the first appellate court are challenged on various grounds.

02. The appellant herein is the defendant and the respondent herein is the plaintiff in O.S. No.30 of 1996. They will hereinafter be referred to as arrayed before the trial court for convenience.

03. The defendant was the alleged tenant in occupation of shop belonging to the plaintiff on payment of monthly rent of Rs.600/-, and on the ground of default, the plaintiff filed suit for recovery of arrears of rent Rs.34,854/-. The defendant denied the quantum of rent, while contending that the agreed rent for the premises was only Rs.300/-. But the trial court and the first appellate court disbelieved the contention of the defendant, while upholding the contention of the respondent that the agreed rent for the premises was Rs.600/-, and decreed the suit for recovery of rent @ Rs.600/- per month from 24.01.1993 onwards, while rejecting the claim prior to 24.01.1993 @ Rs.600/- per month. The first appellate court recorded the concurrent finding and affirmed the Decree and Judgment passed by the trial court.

04. The only contention before this Court is that the dispute is regarding quantum of rent, but it is purely question of fact, and the trial court and the first appellate court concurrently recorded that the agreed rent for the premises was Rs.600/- and not Rs.300/- as

contended by the appellant.

05. Learned counsel for the appellant brought to notice of this Court that he produced all the documents in the rent control case, thereby he could not produce the same in the suit and appeal. But that is not an excuse to accept the contention of the appellant that the rent payable for the premises was only Rs.300/-. In any view, it is purely a question of fact and both the courts recorded concurrent finding and this Court while exercising power under Section 100 of the Code cannot interfere with such finding, unless, the findings are perverse, but here I find no perversity. The learned counsel for the appellant is also brought to my notice, during hearing that the rent control proceedings also ended against the appellant believing the rate of rent pleaded by the respondent. Hence, it is difficult to accept the contention of the appellant. Therefore, the appeal does not call for interference of this Court.

06. Hence, the appeal is dismissed at the stage of admission. It is also brought to the notice of this Court that rent control case was allowed and eviction was ordered believing willful default of rent @ 600/- per month i.e. sufficient to believe the quantum of rent.

07. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 02.08.2016

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