

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Second Appeal No.833 of 2016

Judgment:

As against concurrent judgments and decrees of eviction, the tenant has come up with the above second appeal.

2. Heard Sri Sai Gangadhar Chamarty, learned counsel for the appellant. Smt. Nimmagadda Revathi, learned counsel, takes notice for the respondent.

3. The respondent/landlord filed a suit in O.S.No.1198 of 2006 for recovery of possession and also for recovery of arrears of rent and damages. The appellant contested the suit on the ground that she was very prompt in payment of rents, but that the respondent never issued receipts. The appellant also took a stand that there was no valid termination of tenancy and that at the time of inception, a sum of Rs.2,50,000/- had been paid as advance.

4. The Trial Court framed the following issues:

1. Whether there is valid termination of tenancy of the defendant by the plaintiff under the quit notice, dt.3.11.06?

2. Whether the defendant deposited Rs.2,50,000-00 with plaintiff at the time of inception of tenancy?

3. Whether the defendant committed default in payment of rents as pleaded by plaintiff?

4. Whether the plaintiff is entitled to decree of eviction as prayed for?

5. Whether the plaintiff is entitled to recover arrears of rent and damages? and

6. To what relief?

5. The respondent/landlord examined himself as P.W.1 and examined one Mr. Ch.Ram Das as P.W.2, to testify to the fact that the appellant committed default and that the building has also become old. Three documents were marked as Exs.A-1 to A-3. The appellant examined herself as D.W.1, but did not file any exhibits.

6. The Trial Court found on issues 1 to 3 that there was a valid termination of tenancy by the notice dated 03-11-2006 and that the appellant committed default in payment of rents. However, the Trial Court held in para 17 of its judgment that only a sum of Rs.50,000/- was paid as advance. In view of the said findings, the Trial Court decreed the suit with costs as prayed for.

7. The First Appellate Court raised the following points under Order XLI, Rule 33 CPC as arising for consideration:

1. Whether the respondent is entitled to vacant possession of the plaint schedule property by evicting the appellant from the suit schedule property?
2. Whether the appellant is liable to pay a sum of Rs.68,280/- by way of rent and damages for use and occupation from January, 2006 to October, 2006? and
3. To what relief?

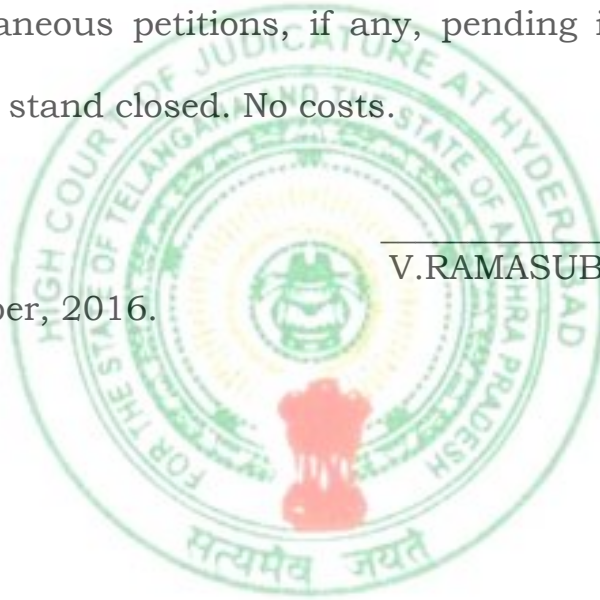
8. After a careful analysis of the oral and documentary evidence, the First Appellate Court answered the 1st point in favour of the respondent-landlord/plaintiff. On the 2nd point, the First Appellate Court held that the amount be recovered towards arrears was not Rs.68,280/- but Rs.46,452/-.

9. As against the said judgment, the tenant is before me.

10. A careful perusal of the judgments and decrees of both the Courts below would show that the concurrent findings were based upon the evidence before the Court. No question of law, much less substantial question of law, arises for consideration in the second appeal. Hence, the second appeal is dismissed. The appellant is granted two months' time to vacate the plaint schedule property. The miscellaneous petitions, if any, pending in this second appeal shall stand closed. No costs.

18th November, 2016.
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V.RAMASUBRAMANIAN, J.



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