

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

SECOND APPEAL NO.113 OF 2016

ORDER:

This second appeal is preferred under Section 100 of Code of Civil Procedure by the defendant in O.S.No.981 of 2013 on the file of III Junior Civil Judge, City Civil Court, Hyderabad and appellant in A.S.No.89 of 2015 on the file of XXIV Additional Chief Judge, City Civil Court, Hyderabad. The trial Court directed the appellant/defendant to vacate the schedule premises by granting two (2) months time, but the appellate Court did not specify the time limit for eviction at the time of dismissal of the appeal filed by the appellant/defendant.

On 19.02.2016, when the matter came up for admission, learned Judge of this Court passed a lengthy order and the operative portion of the order is as follows:

“It is a matter pertains to the eviction of the appellant, defendant, from the suit schedule property on the grounds mentioned. Appropriate issues have been framed by the learned Trial Court and re-framed by the learned first appellate Court and all the issues have been held in favour of the plaintiff. Further, after hearing the learned counsel, I do not see any reason to interfere with the impugned order. But, however, with a view to give an opportunity to the appellant to get instructions from his client with regard to vacating the premises within a reasonable time, presently this matter is adjourned for a period of two weeks.”

It is clear from the order dated 19.02.2016 that this Court did not find any substantial question of law since both the Courts below recorded concurrent findings with specific reasons. However, this Court granted two weeks time to the counsel for the appellant to obtain instructions as to the time required to vacate the premises and granted *status quo* for three weeks.

This Court by order dated 11.03.2016, 28.03.2016 and 20.04.2016 extended the interim order.

On the strength of these orders of extension, learned counsel for the appellant contended that it is a fit case to hear the matter for admission and further contended that the appellant deposited Rs.4,75,000/- with the original owner at the time of obtaining the premises on rent to carry on pharmaceutical business and the same has to be taken into consideration.

As seen from the proceedings sheet, this Court made it clear that there are no grounds, which gave rise to substantial question of law, but granted time only to obtain instructions as to how much time the appellant required to vacate and deliver the vacant possession of the schedule premises. But from the orders dated 11.03.2016, 28.03.2016 and 20.04.2016 it is difficult to infer that the Court intended to hear the matter again for admission. Therefore, no such inference can be drawn from the orders passed on various dates, more particularly the order dated 19.02.2016. Since this Court already recorded its conclusion in the order dated 19.02.2016, the appeal need not be heard again for admission.

Learned counsel for the appellant further contended that an amount of Rs.4,75,000/- was deposited with the original landlord at the time of entering into tenancy agreement and he filed an application under Order 1 Rule 10 C.P.C. to implead the original landlord with whom an amount of Rs.4,75,000/- was deposited, but the same was dismissed and revision is pending before this Court in C.R.P.No.5074 of 2014.

It is a dispute between the landlord and the tenant and the respondent herein, who was the tenant in the adjacent premises, purchased the premises, and the appellant/tenant paid rent for sometime to the respondent herein accepting the relationship of landlord and tenant in view of attornment of tenancy under Section 109 of Transfer of Property Act. Therefore, the dispute is limited to

the extent of granting time for eviction of the tenant from the schedule premises. The respondent herein is not concerned with the deposit, if any, made with the original landlord at the time of entering into tenancy agreement by the appellant. Moreover, no counter-claim is made in the suit. If for any reason, the appellant is entitled to recover the amount, his remedy is otherwise and the entitlement of the appellant for recovery of the amount from the original landlord cannot be decided in the present suit. Hence, the appellant is advised to pursue his remedies in appropriate forum by filing appropriate proceedings against the original landlord for recovery of amount, if any deposited, or otherwise.

At this stage, learned counsel for the appellant requested to grant six (6) months time for vacating the premises and deliver the vacant possession since the appellant is carrying on pharmaceutical distribution business, for which Sri Shyam S.Agarwal, learned counsel for the respondent, did not give consent.

However, taking into consideration of the nature of the business, three (3) months time is granted to the appellant/tenant to vacate the premises subject to payment of arrears at the rate of Rs.5,600/- per month from the date of termination of tenancy till the date of this order, within one month from today and further directed to pay Rs.5,600/- per month on or before 5th of every month till eviction. In the event of failure to comply with any of the aforesaid directions, the respondent/landlord is at liberty to execute the decree.

With the above observations, the second appeal is dismissed at the state of admission following the order dated 19.02.2016. No order as to costs.

The miscellaneous petitions pending, if any, shall also stand

closed.

JUSTICE M. SATYANARAYANA MURTHY

Date:22.08.2016
Ksp