

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

SECOND APPEAL No.623 OF 2016

JUDGMENT:

This second appeal is filed aggrieved by the Decree and Judgment dated 01.06.2016 in A.S. No.32 of 2013 passed by the III Additional Chief Judge, City Civil Court, Hyderabad, whereby confirmed the Decree and Judgment dated 05.12.2012 in O.S. No.790 of 2010 passed by the II Additional Rent Controller-cum-XIV Junior Civil Judge, Hyderabad, ordered vacation of the appellants/defendants from the schedule premises.

02. The respondents herein are the landlords and the deceased-Syed Bahadur obtained the schedule premises on lease and later died, later his legal representatives are continuing to occupy the premises on the same terms of tenancy, but the tenancy was terminated by issuing notice under Section 106 of the Transfer of Property Act, 1882 and thereafter the appellants herein did not vacate the premises as requested by the respondents. Therefore, the suit was filed for eviction of the appellants from the schedule premises for other reliefs.

03. The trial court recorded a finding that there is a valid quit notice and ordered vacation of the schedule premises and the same was affirmed by the first appellate court.

04. The only contention before this Court is that the appellants are running cement works i.e. manufacturing process business. But as per the material on record, the schedule premises was obtained on lease without specifying the purpose

of lease, later the deceased-Syed Bahadur constructed shops and started cement works in the premises. Taking advantage of starting cement manufacturing work, it is contended that the premises was obtained for manufacturing process. It is not the case of the respondents, at any stage, that the schedule premises was obtained for cement manufacturing process, but obtained for occupation. The deceased-Syed Bahadur without specifying any purpose of lease, raised construction and started cement works i.e. manufacturing process. Therefore, the trial court and the first appellate court concluded that the premises was originally obtained for occupation and not for running cement works and such finding need not be disturbed during second appeal in the absence of any plea.

05. During hearing, learned counsel for the appellants contended that the appellants are carrying on business i.e. cement works i.e., manufacturing process in the premises and eking out their livelihood and in the event of their evicting from the premises, they will put to serious loss and requested six months time to vacate the premises.

06. Considering the nature of business and occupation of the premises, since long time, I find that it is a fit case to grant six months time to the appellants to vacate the premises and to deliver of vacant possession to the respondents, subject to payment of arrears of rent, if any, and continue to pay the amount as agreed till vacating the premises on or before 5th of every succeeding month.

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07. On perusal of the entire material, I find no substantial question of law required to be decided in this matter.

08. In the result, the second appeal is dismissed granting six months time to the appellants to deliver vacant possession of the property to the respondents, subject to payment of arrears of rent, if any, and continue to pay the amount as agreed till vacating the premises on or before 5th of every succeeding month.

09. In the event of failure to pay arrears of rent and amount agreed to be paid within the stipulated time, the order shall stand vacated automatically and in such event, the respondents are at liberty to file the execution petition to evict the appellants from the schedule premises for delivery of vacant possession. No costs.

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

M. SATYANARAYANA MURTHY, J

Date: 27.08.2016
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