

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

S.A. No.148 of 2016

Between:
Mohammed Ateeq
... Appellant

And
Syed Rizwan
... Respondent

JUDGMENT PRONOUNCED ON 25.04.2016

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THE HON'BLE SRI JUSTICE G. CHANDRAIAH

- 1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? :
- 2. Whether the copies of judgment may be
marked to Law Reporters/Journals. :
- 3. Whether their Ladyship/Lordship wish to
see the fair copy of the Judgment? :

THE HONOURABLE SRI JUSTICE G.CHANDRAIAH

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S.A. No.148 of 2016

ORDER:

This appeal has been filed against the judgement dated 29.01.2016 passed in A.S. No.395 of 2013 by the III Additional Chief Judge, City Civil Court, Hyderabad.

The appellatant and the respondent herein are the defendant and the plaintiff, respectively.

Initially, the plaintiff filed O.S. No.3219 of 2011 against the defendant seeking direction to direct the defendant to vacate the suit schedule property and also to deliver the vacant possession to the plaintiff and to award costs of the suit.

The learned trial Court vide its judgment dated 04.11.2013 decreed the suit in favour of the plaintiff with a direction to the defendant to vacate the suit schedule property and also to deliver the vacant possession of the property to the plaintiff, within two months from the date of the judgment. Aggrieved by the same, the defendant preferred an appeal in A.S. No.395 of 2013 and the learned appellate Court vide its impugned order dismissed the appeal. Assailing the same, the defendant preferred the present second appeal.

This Court on 19.02.2016, while ordering notice before admission, passed the following order:

"The unsuccessful tenant before both the courts below in a suit for eviction, is the petitioner/appellant herein.

The learned counsel for the petitioner contended that the notice issued by the respondent/plaintiff does not comply with the ingredients of Section 106 of Transfer of Property Act and the courts below have not considered this aspect and therefore, the impugned judgments of the courts below warrant interference and sought to grant interim stay of impugned judgment of the lower appellate court.

A perusal of the material on record and the impugned judgments would disclose that on appreciation of the entire evidence on record and the notice issued under Section 106 T.P.Act, the courts below concurrently recording findings of fact, directed the petitioner to vacate the suit premises. Prima facie I do not find any reason to interfere with the impugned judgments of the courts below.

However, considering the facts and circumstances, the learned counsel for the petitioner is granted two weeks time to get instructions as to the time required for the petitioner/appellant for vacating the suit premises.

Status quo existing as on today with regard to possession over the suit schedule property shall be maintained for a period of three weeks from today.

Post after two weeks."

Thereafter, order of status quo was extended, from time to time.

Today, when the matter has been taken up for hearing, the learned counsel for the appellant submitted that the premises in question is in the use of residential and considerable time is required to vacate the same for which, the learned counsel for the respondent vehemently opposed.

Prima facie, this Court did not find any reason to interfere with the impugned judgments of the Courts below. The learned trial Court had granted two months time to vacate and handover the premises in question. In that view of the matter, this appeal is liable to be dismissed and accordingly, this Second Appeal is dismissed. But, however, keeping in view the facts and circumstances of the case and the submissions made by the learned counsel on either side, with a view to put an end to the litigation, four months, from the date of receipt of a copy of this order, time is granted to vacate the premises in question, and to that effect the appellant/defendant shall file an affidavit before the Court below. Till such time, order of status quo, already granted by this Court, shall continue.

As a sequel, miscellaneous petitions, if any, stands closed.
There shall be no order as to costs.

JUSTICE G.CHANDRAIAH

Date: 25.04.2016
LSK