

**HON'BLE SRI JUSTICE SANJAY KUMAR
AND
HON'BLE SMT. JUSTICE ANIS**

APPEAL SUIT No. 372 OF 2016

JUDGMENT: *(Per Hon'ble Sri Justice Sanjay Kumar)*

The appellant is the plaintiff in O.S.No.56 of 2004 on the file of learned XIV Additional District Judge, Ranga Reddy district at L.B.Nagar, which was dismissed by the judgment and decree dated 11.02.2016.

2. The appendix to the judgment reflects that 28 documents were marked on behalf of the plaintiff. While so, Sri Prabhakar Sripada, learned counsel representing Ch.Ramesh Babu, learned counsel for the appellant/plaintiff, placed before us the certified copies of the documents marked as Exs.A.29 to A.32 in the subject suit. These documents were marked by the plaintiff depositing as PW1 as long back as on 23.09.2013. The judgment under appeal was rendered on 11.02.2016. However, neither did the trial Court refer to the documents in the body of judgment nor were they shown in the appendix of evidence. This careless approach adopted by the trial Court in dealing with the documentary evidence adduced in the suit leads us with no option except to set aside the judgment under appeal on this short ground and remit the suit to the trial Court for considering it afresh on the entire oral and documentary evidence and in accordance with law.

3. Sri Kowturu Pavan Kumar, learned counsel for respondents 1 and 3 to 8 would state that the judgment need not be set aside in its entirety and the trial Court may be directed to consider the relevancy of the documents which were not taken into account. However, we are not inclined to accept this submission as the judgment under appeal, *prima facie*, reflects non-application of mind as the trial Court was not even aware of all the documentary evidence placed before it.

4. The fundamental duty of the trial Court is to examine the entire evidence adduced in a suit and thereafter adjudicate upon the framed issues. Overlooking documentary evidence, as in the present case, cannot be condoned and this crucial lapse on the part of the trial Court constrains us to set aside the judgment under appeal on this short ground.

5. Notices to respondents 9 to 21 in this appeal were returned unserved, but Sri Prabhakar Sripada, learned counsel, would state before us that the appellant/plaintiff is not pressing either this appeal or the suit against these respondents/defendants. This stand of the learned counsel on behalf of the plaintiff is taken on record.

6. The appeal is accordingly allowed. The trial Court shall endeavour to dispose of the suit expeditiously keeping in

mind the fact that this is the second round of adjudication. Office is directed to send back the original record pertaining to the suit immediately.

Pending miscellaneous petitions shall stand closed in the light of this final order. No order as to costs.

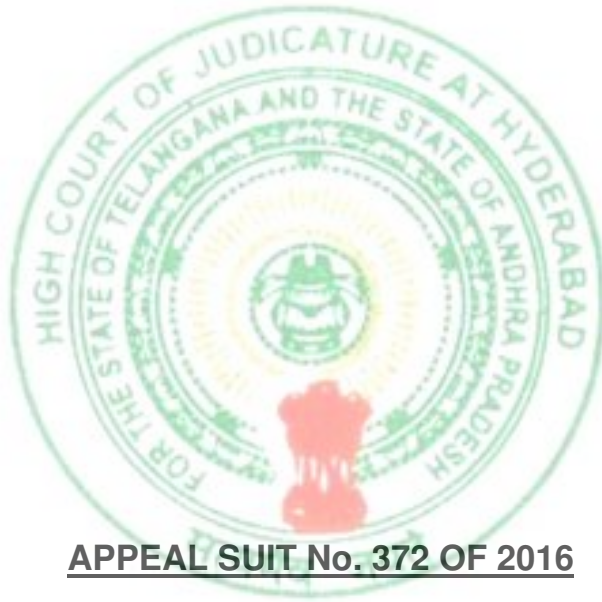
SANJAY KUMAR, J

ANIS, J

Date: 01.12.2016
anr



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1st day of December, 2016

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