

HON'BLE SRI JUSTICE S. RAVI KUMAR

SECOND APPEAL No.644 of 2015

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JUDGMENT:

This second appeal is preferred challenging judgment and decree dated 28.04.2015 in A.S.No.84 of 2009 on the file of

X Additional District and Sessions Judge, Visakhapatnam at Anakapalle, whereunder judgment and decree dated 18.02.2009 in O.S.No.106 of 2006 on the file of Additional Senior Civil Judge, (Fast Track Court), Anakapalle, is confirmed.

2. First respondent herein filed the above O.S.No.106 of 2000 for recovery of money on the foot of a promissory note and equitable mortgage and trial Court on a consideration of oral and documentary evidence decreed the suit and granted a preliminary decree in favour of plaintiff Bank. Questioning the same, appellant herein preferred appeal to the District Court and X Additional District and Sessions Judge, Visakhapatnam at Anakapalle, on a reappraisal of entire evidence dismissed the appeal confirming the preliminary decree passed in favour of Bank. Aggrieved by the same, present second appeal is preferred.

3. Heard arguments.

4. Advocate for appellant submitted subsequent to passing of decree, the mortgaged property was acquired by Andhra Pradesh Industrial Infrastructure Corporation (APIIC) and in view of that there is no saleable interest. The argument of advocate for appellant has no way relevant to the issue in the suit and appeal because if the property is not available for sale and it is the protection for the decree holder and not for the appellant being a defendant in the suit. Though appellant has raised four grounds as substantial questions of law wherein it is also contended that when the land is acquired, the appellate Court is not justified in passing a final decree. But, this ground cannot be

taken as a substantial question of law because only preliminary decree is confirmed in the appeal and ultimately final decree has to be passed on a separate application, therefore, the contention raised on behalf of appellant is not at all tenable. On a scrutiny of the material, I am of the view that no law is involved in this second appeal much less substantial question of law and there are no grounds to admit the appeal.

5. Therefore, second appeal is dismissed at admission stage.

6. Miscellaneous petitions pending, if any, shall stand closed. No costs.

S. RAVI KUMAR, J

10th February 2016.

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