

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SMT. JUSTICE T.RAJANI

C.C.C.A.No. 111 OF 2017

DATED 10TH APRIL, 2017

Between:

Greater Municipal Corporation of Hyderabad,
Rep. by its Commissioner, BRKR Bhavan,
Tank Bund Road, Hyderabad, and another ... Appellants

AND

Mohd. Ali Imam Najaff and others Respondents

Counsel for the appellants : Sri P.Kesava Rao

Counsel for respondent No. 1 : Sri N.Naveen Kumar

Counsel for respondent Nos. 2 to 4 : --

THE COURT MADE THE FOLLOWING

JUDGMENT (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy*):

This appeal arises out of decree and judgment dated 29-01-2016 in O.S.No. 791 of 2011 on the file of the Court of II Additional Chief Judge, City Civil Court at Hyderabad (for short, 'the Court below').

2. By the aforementioned *ex parte* decree in the suit in which the appellants are the only contested defendants, the Court below has declared the title and granted further reliefs of recovery of possession and injunction to respondent No. 1 – plaintiff.

3. Sri L.Ravichander, learned senior counsel, appearing for respondent No. 1, has fairly conceded that the Court below failed to discuss oral and documentary evidence and, therefore, the judgment under appeal does not satisfy the requirements of a valid judgment even if the contested defendants remained *ex parte*. Learned senior counsel while agreeing for a remand, however submitted that a condition may be stipulated that in the event respondent No. 1 succeeds in the suit, the appellants must handover vacant possession of the unencumbered property. Sri P.Kesava Rao, learned standing counsel for Greater Hyderabad Municipal Corporation, after consultation with the appellants, submitted that in the event of respondent No. 1 succeeding in the suit and subject to the right of the appellants in availing further legal remedies, they will handover vacant possession of the property to respondent No. 1 after evicting all the occupants who may be inducted into possession of the building. He has further agreed that permanent encumbrances will not be made till adjudication of the suit. These submissions of learned counsel are placed on record and the judgment and decree under appeal are set aside. The appeal is allowed. The suit is remanded to the Court below for adjudication on merits

permitting the appellants to file written statement and also both parties to adduce evidence/further evidence. The Court below is directed to dispose of the suit within nine months from the date of receipt of a copy of this judgment.

4. As a sequel to disposal of the appeal, C.C.C.A.M.P.(SR).No. 2597 of 2017 and C.C.C.A.M.P.No. 137 OF 2017 shall stand closed as infructuous.

C.V.NAGARJUNA REDDY, J.

T.RAJANI, J.

Date: 10-04-2017.

JSK

