

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

SECOND APPEAL No.1001 OF 2017

Dated:20.11.2017

Between:

M/s. Cosmic Radio House, rep., by its
Owners 1) Md. Rafiq Ahmed,
S/o. Md. Mazdoom Hussain, aged
About 70 years, Occ: Business and another .. Appellants

And

Syed Jameel Ahmed, S/o. S.A. Jaleel,
Aged about 52 years, Occ: Businessman,
R/o.H.No.5-3-26, Edga, Lashkar Bazar,
Hanamkonda .. Respondent



The Court made the following:

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JUDGMENT:

Plaintiff filed O.S.No.961 of 2009 on the file of II Additional Junior Civil Judge, Warangal, praying to grant the following relief:

“... It is therefore prayed that the Hon’ble Court may be pleased to:

- a) pass a decree for eviction of defendants from the suit premises and hand over the vacant possession to the plaintiff and on its failure, the plaintiff may be put in possession through the decree of the Hon’ble Court,
- b) pass a decree for recovery of an amount of Rs.30,000/- towards arrears of rent from the defendants against the person and property of the defendants,
- c) award Rs.15,000/- per month towards damages/mesne-profits for the illegal occupation and use of the suit premises by the defendants from the date of filing of suit till its realization together with interest @ 12% p.a. by directing the defendants to pay the same to the plaintiff, against the person and property of the defendants,
- d) award costs of the suit, and
- e) grant any other relief or reliefs which the plaintiff is entitled under the circumstances of the case.”

2. On contest, the suit was partly decreed with costs directing the defendants to vacate the suit premises within three months from the date of decree, failing which, the plaintiff was granted liberty to evict the defendants under due process of law. With regard to the relief of damages and recovery of arrears, the suit was dismissed.

3. Aggrieved by the decree granted in favour of the plaintiff, defendants preferred appeal in A.S.No.3 of 2016 on the file of II Additional District Judge, Warangal. By judgment and decree dated 05.06.2017, the appellate Court affirmed the decree granted by the trial Court on the issue of eviction. Aggrieved thereby, this Second Appeal is filed.

4. After making elaborate submissions by learned counsel for the appellants/defendants and the respondent/plaintiff, learned counsel for the appellants fairly submits that appellants would not contest the Second Appeal if reasonable time is granted to them to vacate the premises. He would submit that Md. Rafiq Ahmed, who is running the Cosmic Radio House, aged more than 70 years and it would be difficult for him to locate the new premises and therefore requires sufficient time. He sought adjournment to file an affidavit to explain that he would vacate the premises, but only requires reasonable time. Accordingly an undertaking deposited by Md. Rafiq Ahmed is filed on his behalf and on behalf of his son.

5. In view of the undertaking given by the appellants and on their request for granting a reasonable time for vacating the premises, learned counsel for the respondent/plaintiff has accepted for granting of some reasonable time for vacating the premises. Therefore, the Court has not entered into the merits of respective contentions and the grounds urged in the Second Appeal.

6. The appellants undertake that they would vacate the tenanted premises as per the terms imposed by the Court and in the meantime would not create any third party interest or sub let.

Learned counsel for the appellants requests six months to vacate the subject premises.

7. On the contrary, learned counsel for the respondent/plaintiff submits that the decree was passed by the trial Court on 04.12.2015 granting only three months time, whereas even after almost two years thereafter, the premises is not vacated and reasonable time for vacating the premises would be maximum of three months.

8. Having regard to the undertaking now filed, the age of the appellants and in view of the fair submission of the learned counsel for the appellants, I deem it proper to grant four months time from today to vacate the subject premises and hand over possession of the suit schedule property to the respondent/plaintiff on expiry of four months time from today.

9. The Second Appeal is accordingly disposed of. However, it is made clear that in terms of the decree, whatever amounts due to be payable to the respondent/plaintiff shall be paid within a period of four weeks from today and shall continue to pay till the premises is vacated. There shall be no order as to costs.

Miscellaneous Petitions, if any, filed in this Second Appeal shall stand closed.

P. NAVEEN RAO, J

Date:20.11.2017

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