

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

SECOND APPEAL No.352 OF 2017

JUDGMENT:

The plaintiff, who has been unsuccessful throughout is the present appellant. He filed the suit in O.S. No.7266 of 2005 on the file of XIX-Junior Civil Judge, City Civil Court, Hyderabad, seeking perpetual injunction simplicitor restraining the respondent/defendant from interfering with possession and enjoyment over the first floor portion in House No.1-8-725/C, old Nallakunta, Hyderabad, which is the suit schedule property. The said suit was dismissed on 20.09.2010. Aggrieved over the same, he preferred A.S. No.398 of 2010 on the file of XIII-Additional Chief Judge (FTC), City Civil Court, Hyderabad. The learned Appellate Judge, having formulated the point for consideration basing on the grounds, and, dismissed the appeal confirming the judgment of the trial Court on 30.11.2016. Aggrieved over the same, the present Second Appeal is preferred.

2. Heard Sri Sri S. Chandra Sekhar, the learned counsel for the appellant.

3. Since concurrent findings are rendered by the Courts below, in fact, the present Second Appeal has to be dismissed at the threshold. Even looking at the findings of the trial Court as well as the first appellate Court would clearly indicate that the plaintiff failed to file any documentary evidence to substantiate his possession over the suit schedule property. Exs.A1 & A2 are the Certified Copy of Sale

Deeds which relate to Ground Floor and Second Floor respectively, sold by the sister of the defendant, which is not in dispute. Thus, no documentary evidence is forthcoming to substantiate that the plaintiff is in possession of the first floor. Incidentally, he has obligated with the duty to show *prima facie* title over the first floor, in which direction he has completely failed as other documents filed by him, which are Ex.A3 - original Telephone Bill, Ex.A4 - Bunch of Water Bills, Ex.A5 - Electricity bill, and Ex.A6 – Summons served on the defendant do not at all indicate the possession of the plaintiff nor his incidental title over the suit schedule property.

4. On the other hand, the documentary evidence Exs.B1 to B8 would completely condemn the case of the plaintiff and would also give rise to probability that the plaintiff, with a view to knocking away the first floor, has come forward with untenable relief by presenting the second appeal.

5. Thus, on merits also, there is absolutely no semblance in the case of the plaintiff to substantiate the stand that he has taken.

6. Therefore, no illegality or utter perversity, of course, in the findings recorded by both the Courts below, in which direction the appellant herein completely failed to show the same.

7. The substantial questions of law formulated by the appellant/plaintiff relate to the factual aspect, but not on question of law, as such, there is no merit in the present Second Appeal.

8. Accordingly, the Second Appeal is dismissed at the admission stage itself. No order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Second Appeal shall stand closed.

A. SHANKAR NARAYANA, J

Dt. 13.06.2017

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