

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION No.2112 OF 2017

ORAL ORDER:

Heard Sri G. Anandam, learned counsel for the petitioner and Sri L.N. Bhadri Raju, learned counsel for the respondent.

2. In a suit for ejectment and recovery of arrears of rent with a request for future damages for use and occupation of the premises let out by the plaintiff to the defendant, the learned Senior Civil Judge, Kamareddy in I.A. No.346 of 2015 in O.S. No.18 of 2015, passed order, dated 05.01.2017, allowing the application under Order VII Rule 14 (3) of the Code of Civil Procedure, 1908, and acceded to the request to receive original rental agreement, dated 01.11.2016.

3. After formulating the point, the learned trial Court has referred to respective stands taken by the parties, and in paragraph No.8, he observed thus:

“8. The similar question involved in this case has come up for consideration before our Hon’ble AP High Court in Ganeshram Satyanarayana Pandya V/s Ayaneshwar Bijoria reported in 2000 (6) ALT 739 wherein it is held that only lease of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent require compulsory registration. It has further been held that as per Sec 106 of Transfer of Property Act, if the lease is not for agricultural or manufacturing purpose, tenancy would be deemed to be from month to month, terminable by 156 days notice expiring with the end of a month of tenancy. It is further held that if the lease is not for agricultural or

manufacturing purpose the lease should be interpreted to mean that the initial period of lease is for 11 months with a option to seek extension after expiry of the said period. In this case the rental agreement sought to be received is not for agricultural or manufacturing purpose though it is immovable property. Therefore, it shall be taken into mean lease from month to month as per Sec 106 of the Transfer of Property Act and which requires no registration as per Sec 17 (1) (d) of Registration Act.”

4. On a reading of what has been mentioned in paragraph No.8, it appears that the learned Senior Civil Judge somehow misdirected himself in construing provisions of Section 106 of the Transfer of Property Act, 1882 (for short ‘Act, 1882’), in proper perspective. The opening words of provisions of Section 106 of the Act, 1882 would read thus:

“In the absence of a contract or local law or usage to the contrary, ...”

5. Therefore, it is a case where it has to be remitted to the learned Senior Civil Judge for proper comprehension and consideration of the provisions of Section 106 of the Act, 1882 in deciding the request. Thus, while setting aside the order under challenge, I.A. No.346 of 2015 is directed to be decided once again by giving opportunity to both sides by considering the law declared by the Hon’ble Supreme Court and various other High Courts.

The Civil Revision Petition is, accordingly, allowed. As a sequel, miscellaneous petitions, if any, pending in the revision shall stand closed.

A. SHANKAR NARAYANA, J

July 28, 2017.

Mgr

