

.HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

SECOND APPEAL No.616 OF 2017

JUDGMENT:

When the matter came up for hearing on admission of the Second Appeal today, learned counsel for the appellants Sri M.A.K.Mukheed and learned counsel for the respondent Sri Khaja Moizuddin are present and submitted arguments.

2. Learned counsel for the appellant would submit that the suit in Second Appeal is one for eviction of the appellants/defendants from the suit schedule Mulgi and both the Courts below ordered eviction of the appellants/defendants from the suit schedule property and in that view of the matter, the appellants concede that no substantial questions of law are involved in the matter for them to continue the Second Appeal. While submitting so, learned counsel prayed that 3 years time may be granted for evicting the suit schedule property.

3. Per contra, learned counsel for respondent/plaintiff would submit that, the plaintiff has been out of property since more than 70 years and he requires his property for undertaking further constructions for his personal use and therefore, if three more years time for eviction is granted, plaintiff would be put to much hardship and instead, he would be agreeable, if one year time is granted to evict the suit premises. Learned counsel would further submit that if any arrears of rent are due as on today, his party would initiate separate action for recovery of those rents.

He requested that conditions may be imposed to the appellants/defendants to pay rents regularly and not to let out or alienate the suit premises during their possession in the coming one year.

4. In view of the above submission of both the counsel, this Second Appeal is dismissed at the admission stage with the following conditions:

1. The appellants/defendants are permitted to continue in the suit schedule property for one year from today on payment of monthly rent of Rs.2,500/- (Rupees Two Thousand Five Hundred only) on or before 10th of every succeeding month.
2. Failing to pay the rent as above, the respondent/plaintiff is entitled to evict the appellants/defendants and recover the arrears of rent treating this order as a decree.
3. The appellants/defendants shall not sub-lease or alienate the suit schedule property during their occupation of the property.
4. After completion of one year, the appellants shall handover possession of the suit schedule property to the respondent/plaintiff or their nominee.

Consequently, miscellaneous petitions, pending, if any shall stand closed. No costs.

JUSTICE U. DURGA PRASAD RAO

Date: 02.08.2017
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