

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

SECOND APPEAL NO.1339 OF 2017

DATED:29-12-2017

Between:

Akula Murali Krishna ... Appellant

And

Vadali Radhika Sastry ... Respondent

COUNSEL FOR THE APPELLANT: Mr. D.V.S. Seetha Rama Raju

COUNSEL FOR THE RESPONDENT: Mr. Ravi Cheemalapati



THE COURT MADE THE FOLLOWING:

JUDGMENT:

This second appeal is filed assailing the concurrent judgments in O.S. No.997 of 2015 on the file of the Court of the I Additional Junior Civil Judge, Visakhapatnam, and in A.S. No.183 of 2016 on the file of the VII Additional District Judge (Fast Track Court), Visakhapatnam.

On 24.11.2017 the case was adjourned at the request of Mr. P. Venugopal, learned Senior Counsel for the appellant for filing an undertaking of his client that he will vacate the premises within six months and pay the arrears within one month. The appellant has accordingly filed an affidavit dt.29.11.2017 vide USR No.8250 of 2017. In paragraph 3 of the affidavit, the appellant has undertaken as under:

“I would vacate the premises which is subject matter of the instant second appeal within a period of six months from the date on which the Hon’ble Court passes appropriate orders in the instant second appeal. I agree to pay the rents payable which are due and payable within a period of four weeks and continue to pay the rents till the period of six months period is over. I state that the instant undertaking be recorded and appropriate orders be passed granting six months time for me to vacate the plaint schedule property, which is subject matter of the instant second appeal.”

Mr. Ravi Cheemalapati, learned counsel for the respondent, pointed out that the appellant has not specifically undertaken to pay the arrears as per the decree. Mr. S.V.R. Subrahmanyam, learned counsel representing Mr. D.V.S. Seetha

Rama Raju, learned counsel for the appellant, submitted that in saying that “I agree to pay the rents payable which are due and payable within a period of four weeks”, the appellant is meant to state that he is prepared to pay the arrears as per the decree.

In the light of the undertaking affidavit given by the appellant as clarified by the counsel representing him, the second appeal is dismissed in the following terms.

- (i) The appellant shall remain in possession of the suit schedule property for a period of six months from today.
- (ii) Within four weeks from today, the appellant shall deposit the entire arrears as per the decree to the credit of the suit before the trial Court.
- (iii) The appellant shall also continue to pay the rents as per the decree till he vacates the property on or before 5th of every month succeeding the month in which the rent fell due.
- (iv) On the expiry of six months from today, the appellant shall positively handover the vacant possession of the suit schedule property without any demur.

- (v) In the event, the appellant commits default of any of the conditions in (i) to (iv) supra, the respondent is entitled to get the appellant evicted and also initiate contempt proceedings before this Court for violation of the affidavit undertaking.

As a sequel to dismissal of the second appeal, S.A.M.P. No.2739 of 2017 shall stand disposed of as infructuous.

29-12-2017

bnr

C.V. NAGARJUNA REDDY, J

