

SECOND APPEAL No.217 of 2018

JUDGMENT:

This appeal is filed by the appellant/defendant No.4, aggrieved by the judgment and decree dated 20.11.2017 in A.S.No.112 of 2011, wherein the learned III Additional Chief Judge, City Civil Court, Hyderabad, confirmed the judgment and decree dated 24.09.2010 in O.S.No.15200 of 2003 passed by the XIX Junior Civil Judge, City Civil Court, Hyderabad.

2. Heard the learned counsel for the appellant before admission of the appeal as to involvement of any substantial questions of law and perused the decree and judgment of the trial Court vis-à-vis the 1st appellate Court and also the pleadings covered by the plaint, particularly, that of defendant No.4/ appellant.

3. No doubt, the trial Court is not correct in granting the perpetual prohibitory injunction, but, to confine the relief including by referring the expression in 2009(5) ALT 403, no injunction against a true owner can be granted, more particularly, though, otherwise, except through due process of law, the true owner is not entitled to evict the persons in possession including to confirm the same by the lower appellate Court with any concurrent findings but for to clarify that there is nothing to admit the appeal.

4. With the above observations, the Second Appeal is disposed of before admission. The liberty is always left open to the appellant/ defendant No.4 to file a suit to evict the other defendants and plaintiff or any other persons through due process of law including for any liability of damages for use and occupation by confining the relief of injunction is till eviction through due process.

5. Consequently, miscellaneous petitions, if any shall stand closed. No order as to costs.

Date: 23.03.2018

pab

JUSTICE Dr. B. SIVA SANKARA RAO

