

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

SECODN APPEAL No.1037 OF 1999

JUDGMENT:

The present Second Appeal, under Section 100 of Code of Civil Procedure, 1908 (for short 'CPC'), is preferred against the concurrent findings recorded by the Courts below.

2. The appellant herein, as plaintiff, has filed O.S. No.80 of 1994 on the file of District Munsiff, Siddipet, Medak District, claiming damages of Rs.35,000/- for non-occupation of his building by respondent No.4's office i.e., The Assistant Social Welfare Officer, Siddipet.

3. Incidentally, respondent Nos.1 to 3 are arrayed as defendant Nos.1 to 3 and respondent No.4 as defendant No.4, which are all Government Departments, and respondent No.4 is being supervised by the other three respondents in hierarchy.

4. The trial Court, based on the pleadings, settled the following three (3) issues to adjudicate upon the controversy between the parties:

- “1. Whether there is any contract between the plaintiff and defendant and whether it is true and valid?
2. Whether the plaintiff is entitled for the damages to an extent of Rs.33,000/- as claimed for?
3. To what relief?”

5. To substantiate his case, the plaintiff examined himself as PW.1 besides examining PWs.2 and 3 and marked Exs.A-1 to A-10, whereas, on behalf of the defendants, DWs.1 and 2 were examined and Exs.B-1 to B-3 were marked.

6. The trial Court considering the evidence of PW.2, DWs.1 and 2 and Exs.A-1 to A-3 and A-10, examined the stand of the defendants that there was no privity of contract between the plaintiff and the defendants on the ground that the Deputy Director of Social Welfare has no authority to issue the letter dated 30.06.1991, marked as Ex.A-10, observing that there was no dispute with regard to Ex.A-10's genuinity and adverted to the provisions of Section 2(2)(b) and (c) of the Indian Contract Act, 1872, and dealt with the proposal relating to the premises agreement and then referred to the visit of the Deputy Director of Social Welfare, to the building with a view to take the building on rent for Backward Class (B) Hostel and accepting the offer to lease out the premises which was an oral acceptance. Then the trial Court referred to the proceedings issued by the District Collector, Medak, in the month of July, 1991, directing the local Warden and the Assistant Social Welfare Officer to occupy the building by 21.08.1991 and later the said proposal was dropped by Ex.B-3 proceedings even before taking occupation. That has been the reason, the trial Court opined that there was no concluded contract and, therefore, the plaintiff cannot impose an obligation on the

defendants to pay damages, and finding was recorded under issue No.2 rejecting the same.

7. The damages were claimed at the rate of Rs.2,000/- per month for the period from 22.08.1991 to 08.08.1992. This was challenged by the defendants in A.S. No.2 of 1997 on the file of Senior Civil Judge, Siddipet.

8. The learned Senior Civil Judge by his judgment dated 21.03.1999, referring to the expenses invested in making the premises ready by whitewashing and other sundry repairs being effected and discussing the effect of withdrawal memo under Ex.A-3 as well as Ex.A-1 contents, in the light of Ex.B-3 and making an elaborate discussion based on independent appraisal of evidence on the points formulated in paragraph No.11, arrived at the conclusion that Ex.B-3 was issued by the Government before acceptance of Ex.A-1 by the plaintiff and thus, according to the learned lower appellate Court, the said fact clearly envisages that the Government has cancelled Ex.A-1 and incidentally, it was observed that before cancellation of Ex.A-1, plaintiff even did not communicate his acceptance for Ex.A-1 to consider any concluded contract as per law and, therefore, held that Ex.B-3 gains precedence over Ex.A-1 and thus, the trial Court erred in granting decree.

9. When the grounds agitated in the present Second Appeal deal with only factual aspects, the question of involvement of substantial questions of law does not arise. Further, on merits also, when Ex.B-3 was examined in the light of Ex.A-1 contents, certainly, Ex.B-3 gains precedence over Ex.A-1, as rightly observed by the lower appellate Court. Thus, even on merits, there is no case for the appellant (plaintiff).

10. The present Second Appeal, is, therefore, dismissed. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in the present second appeal stand dismissed.

A. SHANKAR NARAYANA, J.

February 9, 2018.

PV

