

THE HON'BLE SRI JUSTICE SANJAY KUMAR

SECOND APPEAL NO.638 OF 2018

J U D G M E N T

This second appeal arises out of the judgment dated 03.02.2018 passed by the learned XVI Additional District and Sessions Judge-cum-XVI Additional Metropolitan Sessions Judge, Ranga Reddy District at Malkajgiri, in A.S.No.66 of 2015 confirming the judgment and decree dated 30.06.2014 passed by the learned II Additional Junior Civil Judge, Ranga Reddy District at L.B.Nagar, in O.S.No.744 of 2004. The said suit was filed by the respondent herein seeking eviction of the appellant from the suit schedule property and to hand over its vacant possession to him along with mesne profits. By the judgment dated 30.06.2014, the trial Court decreed the suit and directed the appellant herein to vacate and hand over possession of the suit schedule property to the respondent within two months along with mesne profits @ Rs.1,500/- per month from the date of the suit till the date of vacating of the premises. Costs to the tune of Rs.1,893/- were also awarded to the respondent. Aggrieved thereby, the appellant filed A.S.No.66 of 2015 before the learned XVI Additional District and Sessions Judge-cum-XVI Additional Metropolitan Sessions Judge, Ranga Reddy District at Malkajgiri.

The appeal was preferred on 17.03.2015 and the respondent in the appeal, the plaintiff in the suit, died on 24.06.2016. A copy of the death certificate dated 02.08.2016 issued by the Greater Hyderabad Municipal Corporation is placed on record in evidence thereof. Long thereafter, the appeal came to be dismissed by the judgment dated 03.02.2018. It is against this judgment that the appellant seeks to maintain the present second appeal.

This Court is informed by way of a third party affidavit filed by one D.Srikanth Reddy, son of the deceased respondent, that the appellant was well aware of the death of the respondent long before the date of the judgment, i.e., 03.02.2018. Reliance in this regard was placed upon FIR No.292/2017 dated 11.04.2017 and FIR No.189/2018 dated 27.02.2018. A copy of the final report filed by the Sub-Inspector of Police, Jawahar Nagar Police Station, Rachakonda, before the learned XXI Metropolitan Magistrate at Medchal, Cyberabad, in relation to FIR No.189/2018 is placed on record. Perusal thereof reflects that the appellant herein was the complainant in the said FIR and in his complaint, he had stated that D.Srikanth Reddy, son of the deceased respondent, was accused No.1 in FIR No.292/2017 dated 11.04.2017 and that 'late' Malla Reddy, the respondent herein, never purchased his house.

It is therefore clear that the appellant was well aware of the death of the sole respondent in the appeal but took no steps to implead his legal representatives prior to its disposal by way of the judgment dated 03.02.2018. In effect, the appeal stood abated long before the judgment was pronounced therein.

In these circumstances, this Court sees no grounds to entertain this second appeal against the judgment passed in an abated appeal and adjudicate the same on merits. On this short ground, the second appeal is dismissed. Pending miscellaneous petitions shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

5th OCTOBER, 2018

Note: Issue C.C. in one week.
B/ o Svv