

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

S.A.No.1323 of 2018

Date:07.9.2018

Between.

Thandrangi Eswara Rao,
S/o Tatabbai

.....Appellant

And.

Verothi Kantham,
W/o Appa Rao

...Respondent

Counsel for the appellant: Mr. Koppula Gopal

Counsel for the respondent: Mr. Y.Sudhakar

The Court made the following:



JUDGMENT:

The concurrent findings of fact rendered by the primary as well as the appellate Courts are questioned in this Second Appeal filed by the defendant in O.S.No.429 of 2013 on the file of the Principal Junior Civil Judge, Visakhapatnam.

Admittedly, the written lease deed, dated 01.01.2008, expired on 31.12.2012. On 10.3.2013, the respondent has issued quit notice to the appellant. As the appellant failed to vacate the demised premises, the respondent has filed the aforementioned suit for eviction. The Courts below have disbelieved the appellant's plea of oral extension of lease and in my view rightly. They also rejected the plea of the appellant that as the respondent was receiving the rents after Ex.A-1-quit notice is served, the latter has waived his right seeking eviction. The trial Court has rightly relied upon the judgment of the Supreme Court in *Sarup Singh Gupta Vs. S.Jagdish Singh & Ors*¹ holding that mere receipt of rents after quit notice does not amount to coming into existence of fresh lease.

In the light of the above findings of the Courts below, both on facts and on law, which do not suffer from any error of law, I do not find any substantial question of law arising in this Second Appeal.

¹ (2006) 4 SCC 205

Mr. Koppula Gopal, learned counsel for the appellant, requested for reasonable time for his client to vacate the demised premises. After hearing Mr. Y.Sudhakar, learned counsel for the respondent, and considering the fact that the demised premises were being put to use for commercial purpose, the appellant is permitted to vacate the same on expiry of four months from today. Within two weeks from today, the appellant shall file an affidavit before the trial Court undertaking to vacate the demised premises on the expiry of four months from today and continue to pay the monthly rents as per the schedule till the vacant possession is handed over to the respondent. In default of the above conditions, the Second Appeal shall stand dismissed.

Subject to the above conditions, the Second Appeal is disposed of.

As a sequel to disposal of the Second Appeal, I.A.No.2 of 2018 filed for interim relief is disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

07th September, 2018
dr