

THE HON'BLE DR JUSTICE SHAMEEM AKTHER

SECOND APPEAL No. 1163 OF 2017

JUDGMENT:

The Second Appeal is filed by the unsuccessful defendant against the judgment and decree dated 27.04.2017 in Appeal Suit No.148 of 2015 on the file of the V Additional District Judge, East Godavari at Rajamahendravaram, whereby the judgment and decree dated 10.09.2015 in Original Suit No.470 of 2012 on the file of the Principal Junior Civil Judge, Rajamahendravaram decreeing the suit filed for eviction of the defendant from the suit schedule property and for recovery of arrears of rent and damages, were confirmed.

2. Heard both sides and perused the evidence on record.

3. During course of submissions, it has been agreed by the learned counsel for the appellant/defendant that the defendant, who is tenant, will evict the suit schedule premises and hand over vacant possession thereof to the respondent/plaintiff by 31.12.2018. On 31.07.2018, an undertaking affidavit has been filed by the appellant/defendant to that effect. The same is taken on record. Learned counsel for the respondent/plaintiff conceded for granting time till 30.11.2018. Learned counsel for the appellant/defendant agreed that the appellant/defendant will vacate the suit schedule premises and hand over vacant possession thereof to the respondent/plaintiff by 30.11.2018.

4. Even on merits, both the courts below rightly ordered eviction of the appellant/defendant from the suit schedule premises and directed him to pay arrears and damages. These findings are based on the evidence. The proposed substantial questions of law in the grounds of appeal are only on factual aspects. Both the Courts below analysed the

entire evidence on record and gave concurrent findings on the factual aspects. None of the findings is shown to be perverse. The findings are based on record and there is no infirmity. There are no grounds to take a different view. Under these circumstances, no question of law, much less substantial question of law, as contended by the appellant/plaintiff to deal with under Section 100 of the Code of Civil Procedure, 1908 comes up for determination so as to admit the Second Appeal. Therefore, there are no grounds to admit the Second Appeal. The Second Appeal is devoid of merit and is liable to be dismissed.

5. However, in view of the undertaking affidavit filed by the appellant/defendant and as conceded by the respondent/plaintiff, the appellant/defendant is directed to vacate the suit schedule premises and hand over vacant possession thereof to the respondent/plaintiff by 30.11.2018. The respondent/plaintiff is entitled to recover the arrears of rent and damages awarded by the courts below in accordance with the procedure established by law.

6. With the above observation, the Second Appeal is dismissed at the stage of admission. No costs.

Miscellaneous Petitions pending, if any, in the Second Appeal shall stand closed.

27.08.2018
DRK

(Dr.SA, J.)

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