

THE HON'BLE SRI JUSTICE SANJAY KUMAR

SECOND APPEAL NO.1453 OF 2017

J U D G M E N T

This second appeal was preferred by the defendant in O.S.No.51 of 2003 on the file of the learned Junior Civil Judge, Tandur, aggrieved by the confirmation of the judgment passed therein by the appellate Court of the learned XII Additional District Judge, Vikarabad, in A.S.No.107 of 2012 (old A.S.No.1 of 2011) *vide* judgment dated 30.06.2017.

Heard Sri Vijay Kumar Heroor, learned counsel for the appellant/defendant, and Sri Bajrang Singh Thakur, learned counsel on caveat for the respondent/plaintiff.

Though Sri Vijay Kumar Heroor, learned counsel for the appellant, framed substantial questions of law touching upon the merits of the matter, he would point out that there was no independent application of mind by the appellate Court which routinely copied the judgment of the trial Court which was under appeal and thereafter confirmed it. Learned counsel would point out that para 16 onwards of the appellate Court's judgment up to the end of para 21 thereof is verbatim copy of the trial Court's judgment from para 7 up to the end of para 12.

Upon verification, this Court finds it to be so.

The appellate Court, even if it is inclined to confirm the judgment of the trial Court, must necessarily apply its mind and such independent application of mind must be apparent on the face of the appellate Court's judgment. Copying the judgment of the trial Court word to word falls woefully short of the required standard. On this short ground, the judgment under appeal is set aside and the matter is remitted to the file of the

appellate Court for consideration of the appeal on its own merits and in accordance with law.

The second appeal is accordingly allowed. As this is a second round of litigation, the appellate Court shall endeavour to dispose of the appeal as expeditiously as possible and preferably within three months from the date of receipt of a copy of this order.

Pending miscellaneous petitions shall stand closed. No order as to costs.

6th APRIL, 2018

Sv

SANJAY KUMAR, J

