

THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

SECOND APPEAL Nos.38 OF 2019 & 40 OF 2019

COMMON ORDER:

The appellant in the second appeals before admission by name P.V.C.Kumar in OS.No.468 of 2013 and J.Yadagiri in O.S.No.466 of 2013 before the learned VII Additional Senior Civil Judge, Ranga Reddy District, At L.B. Nagar, was the defendant in both the suits filed by Smt. M.Sreedevi, plaintiff respectively for the respective premises, commercial it appears, and these are the suits for eviction filed by her respectively against said defendant/appellant herein and the trial Court after contest decreed the suits respectively on 07.03.2013 and appeals filed by the unsuccessful defendant in A.S.Nos.125 of 2018 & 126 of 2018 were also dismissed on 10.10.2018 by the learned VIII Additional District and Sessions Judge, Ranga Reddy District, confirming the trial Court's decree for eviction supra. It is impugning the same, the second appeals are filed.

2. In the grounds of the respective two second appeals, the following substantial questions of law are raised:

- “i) Whether the courts below are justified in passing the decree and judgment ignoring the cardinal principles and well established law in respect of the eviction and came to conclusion on assumption and presumptions?
- ii) Whether the courts below is justified in decreeing the suit in-spite of no default in payment of rents having found that there was no merits at all?
- iii) Whether the courts below is justified in non framing of the issue with regard to the plea of personnel occupation pleaded by the plaintiff?

- iv) Whether the courts below is justified in decreed the suit ignoring the cordial principles of law only the relying upon the notice issued under Sec. 106 of the Transfer of Property?”

3. Heard both sides and perused the grounds raised supra and also the trial Court's judgments and first appellate Court's judgments and similar order passed in S.A.No.1 of 2019 filed by another tenant of the adjacent premises by name M.Krishna Kumar against said Smt. M.Sridevi, plaintiff in O.S.No.462 of 2013, on the self-same Court covered by similar judgment, dated 07.03.2018, for eviction, subject matter of the unsuccessful appeal in AS.No.124 of 2018, dated 10.10.2018, by the self-same first Appellate Court where the self-same grounds raised and in referring to the facts, observed that there is no any substantial questions of law involved including on the so-called sufficiency of the quit notice under Section 106 of the Transfer of Property Act, particularly from Sub-clause (3) covered by the amended Act.

4. From perusal of the material on record in respect of the grounds raised as if involved substantial questions of law, there are no any substantial questions of law and what is contended of the judgments are on assumptions and presumptions and concurrent findings devoid of merit are not at all correct from the categorical findings of the trial Court with so many words from the proof that was confirmed in the disposal of the appeal being meritless.

5. Having regard to the above, there is nothing to admit the second appeals, but for in similarly situated case where time for vacating the premises granted till end of November, 2019, in SA.No.1 of 2019 *vide* judgment, dated 25.01.2019.

6. Accordingly, rather than dismissal, both the Second Appeals are also disposed of by granting ten (10) months time to the appellants/tenants from today to vacate by 30.11.2019 by recording oral undertaking through counsel on the factual aspect that in the meantime their continuation is as trespassed practically, but for by virtue of this order so as to secure alternative accommodation and not with any other way and they have to deposit use and occupation charges of Rs.10,000/- (Rupees ten thousand only) each from 01.01.2019 onwards in the bank account of the respondent/landlord till vacating the premises by 5th of every succeeding month and the undertaking not to allow any third party into the premises and vacate in the meantime, otherwise liable for contempt even is recorded. It is made clear that the appellants/tenants shall not alter the premises and shall not allow any third party and must vacate the premises on or before that time granted and if failed to comply any of the conditions, the appellants/tenants are liable for action to be initiated under contempt of the Court, without prejudice to the right of the appellants/tenants after afflux of time fixed supra. The security deposit, if any, shall be adjusted at the time of vacating the premises.

Miscellaneous petitions pending consideration, if any, in these cases shall stand closed in consequence.

DR.B.SIVA SANKARA RAO, J

Date: 15th February, 2019

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