

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

SECOND APPEAL No.157 of 2019

JUDGMENT:

This Second Appeal is filed by the appellant/defendant, challenging the judgment and decree dated 03.04.2019 passed in A.S.No.65 of 2018 by the XII Additional Chief Judge, City Civil Court, Secunderabad, whereby, the judgment and decree dated 12.10.2018 passed in O.S.No.19 of 2016 by the XI Junior Civil Judge, City Civil Court, at Secunderabad, was confirmed.

2. Heard arguments of Sri Sunil B Ganu, learned counsel for appellant, Sri Dharmesh D.K.Jaiswal, learned counsel for respondent and perused the record.

3. The appellant herein is the defendant and the respondent herein is the plaintiff before the trial Court. Hereinafter, the parties are referred as they were arrayed before the trial Court.

4. The plaintiff, who was in the waiting list of the defendant-club, was issued letter dated 24.06.2013 bearing No.SE/MSHIP2013/312 terminating the waiting list number. Aggrieved by the said letter, the plaintiff had filed O.S.No.19 of 2016 before the XI Junior Civil Judge, City Civil Court, at Secunderabad. After due trial, the trial Court was pleased to decree the said suit in favour of the plaintiff restoring the waiting list number of the plaintiff at Sl.No.2714. Challenging the same, the defendant-club preferred A.S.No.65 of 2018 before the learned XII Additional Chief Judge, City Civil Court,

Secunderabad, wherein the 1st appellate Court was pleased to dismiss the appeal confirming the judgment and decree dated 12.10.2018 passed by the trial Court. Aggrieved by the same, the present Second Appeal is filed.

5. Having argued for sometime, both the counsel on record had conceded that the plaintiff had paid Rs.25,000/- towards caution deposit to retain the name of the plaintiff in the waiting list. Further, an amount of Rs.25,000/- was also paid towards interest, for the delay caused in paying the caution deposit. There is no dispute by the defendant with regard to the receipt of the said amounts. It is also submitted by both sides that in the peculiar circumstances and as a special case, the waiting list No.2714 of the plaintiff be confirmed.

6. As seen from the entire material placed on record, the reason for delay in paying the caution deposit was change of residence of the plaintiff from one place to the other. This fact was appreciated by both the Courts below and concurrently held in favour of the plaintiff. There is nothing to take a different view. There is no substantial question of law as required under Section 100 of CPC to deal with this Second Appeal.

7. Under these circumstances, there are no merits in this Second Appeal. It is clarified that an amount of Rs.25,000/- deposited towards interest by the plaintiff with the defendant club is to be adjusted for the delay caused in paying the caution deposit.

8. With the above observations/adjustment of Rs.25,000/-, this Second Appeal is dismissed. No costs.

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

Dr. SHAMEEM AKTHER, J

Date: 17.09.2019
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