

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

APPEAL SUIT No.2695 OF 1999

JUDGMENT:

This appeal is filed against the decree and judgment dated 29.06.1998 in O.S.No.41 of 1994 passed by the Senior Civil Judge, Siddipet, Medak District, whereby the trial Court has dismissed the said suit.

2. The appellants are the plaintiffs and the respondent is the defendant.

3. The plaintiffs filed the said suit claiming damages of Rs.6,39,384/- in respect of building Nos.1-13 and 1-13/1 damaged by the Naxalites, which the defendant-Bank has taken on rent.

4. Heard the learned counsel for the appellants and perused the record.

5. In spite of service of notice, there is no representation on behalf of the respondent-Bank. However, the appeal can be disposed of basing on the material available on record.

6. Learned counsel for the appellants would contend that without there being any bar of limitation, the suit was dismissed holding that it was not filed within the time prescribed and no damages were granted. Further, it was held that the appellants are not entitled to any damages caused to their building due to the blast made by the anti social elements though the buildings were in occupation of the respondent-bank.

7. The points that arise for determination are as follows:-

1. Whether the suit was filed within the period of limitation?
2. Whether the appellants are entitled for damages as claimed?
3. To what relief?

8. **POINTS 1 AND 2:-** As seen from the record, the subject premises bearing Door Nos.1-13 and 1-13/1, situated at Narayanaraopet Village were let out to the respondent-Andhra Bank by the appellants/plaintiffs on payment of monthly rent. On the intervening night of 29/30.07.1990, there was a blast of the said premises, resulting damages to it. After some correspondence, the appellants filed O.S.No.41 of 1994 for damages of Rs.6,39,384/- against the respondent-bank on 06.04.1994. As per Article 113 of the Limitation Act, the limitation prescribed for filing the suit for damages is three years from the date of arising of cause of action. The cause of action arose on the intervening night of 29/30.07.1990. However, the suit was filed on 06.04.1994 i.e., beyond three years of the prescribed limitation. Admittedly, there was correspondence in between the parties to the litigation, but, that would not extend the period of limitation. The trial Court had elaborately dealt with the same and rightly held that the suit is barred by limitation. When the suit is not instituted within the period of limitation, there is nothing to assess and award the damages as claimed by the appellants. Therefore, both the points are answered against the appellants. The appeal is devoid of merit and is liable to be dismissed.

9. **POINT No.3:-** In the result, the appeal is dismissed.
No costs.

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

Dr. SHAMEEM AKTHER, J

Date : 24.01.2019
ssp