

HON'BLE SMT. JUSTICE G. ANUPAMA CHAKRAVARTHY

SECOND APPEAL NO.441 OF 2014

JUDGMENT:

The Second Appeal is arising out of the judgment and decree dated 06.08.2012 passed in A.S.No.58 of 2011 on the file of V Additional District Judge (III Fast Track Court), Nalgonda at Miryalaguda, dismissing the appeal confirming the judgment and decree dated 26.07.2011 in O.S.No.13 of 2002 on the file of Senior Civil Judge, Miryalaguda. Plaintiffs are the appellants.

2. The original suit was filed by the plaintiffs against the defendants for declaration of title, eviction of tenants, recovery of arrears of rent and perpetual injunction based on purchase agreement deeds and oral rental agreements.

3. On the other hand the defendants 1 and 2 filed detailed written statement admitting their relationship with the plaintiffs, but denied the other material allegations.

4. Basing on the pleadings, the trial court has framed the following issues for trial.

1. *Whether the defendant Nos.1 and 2 sold away their respective 1/3rd share in the suit schedule property?*

2. *Whether the plaintiff No.1 is entitled for declaration of title over the suit lands?*
3. *Whether the defendants 3 to 7 are liable to be evicted from the suit lands?*
4. *Whether the plaintiffs are entitled for arrears of rent for the suit property from the defendants 1 and 2 along with interest?*
5. *Whether the plaintiffs are entitled for injunction as prayed for?*
6. *To what relief?*

5. During the course of trial, on behalf of the plaintiffs PWs.1 to 3 were examined and Exs.A1 to A15 were marked. On behalf of the defendants DWs.1 to 3 were examined and Ex.B1 and Exs.X1 to X-3 through DW.3.

6. The trial Court, after considering the oral and documentary evidence on record and after hearing rival contentions of both the parties, dismissed the suit. Being aggrieved by the same, the appellants/plaintiffs filed an appeal before the V Additional District Court, Miryalaguda and the first appellate court after hearing both sides and on examining the oral and documentary evidence on record, dismissed the appeal confirming the judgment and decree of

the trial Court. Being aggrieved by the judgment and decree passed by the first appellate court the present second appeal is filed by the appellants/plaintiffs, raising the following substantial questions of law:

- a. Whether the appellants/plaintiffs are absolute owners and possessors under the guise of Exs.A12 to A15?
- b. When the courts below believed Exs.A12 to A15, whether the respondents 1 and 2 have right to collect the rents from the respondents 3 to 7 even after executing the sale consideration defendant No.1 and also father of Defendant No.2?
- c. When DW1 admitted in his cross-examination that he executed Ex.A3 dated 5.7.1984, whether the same is valid and binding on defendant No.2?
- d. Whether the defendants are entitled to receive the rents from respondents 3 to 7 (D3 to D7) being exclusive possession and enjoyment of the suit schedule property right from 1972 till 2000?
- e. Whether the appellants are entitled for arrears of rent and damages being the exclusive possessors and purchasers of the suit schedule property under Registered Agreement of Sale?

7. Heard the learned Counsel for the appellants and perused the record.

8. On perusal of the substantial questions of law as raised by the appellant, it is evident that those are all on facts, but not on law. The scope under Section 100 of CPC is very limited. In a Second Appeal, if the High Court is satisfied that the case involves a substantial question of law, then only, the Court can interfere with the orders of the Courts below. In the present case, it is not proper to interfere with the concurrent fact findings of the Courts below in the absence of substantial question of law. Therefore, the Second Appeal deserves to be dismissed.

9. Accordingly, this Second Appeal is dismissed, at the stage of admission, as devoid of merit, confirming the judgment dated 06.08.2012 passed in A.S.No.58 of 2011 on the file of V Additional District Judge, Miryalguda. There shall be no order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

G.ANUPAMA CHAKRAVARTHY,J

20.09.2022

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