

**HON'BLE SRI JUSTICE P.NAVEEN RAO
AND
HON'BLE SRI JUSTICE J. SREENIVAS RAO
CITY CIVIL COURT APPEAL No.48 of 2022
Date:31.10.2022**

Between:

Mr Surender Bantia alias Premraj Surendar Bantia
S/o G P Bantia aged 58 years occ Business R/o 207
Sikh Road Secunderabad.

.....Petitioner

And

K N Murthy S/o Satyanarayana Aged 54 years
Occ Business R/o Plot No 9 H No 450/9
Jayabheri Enclave Gachibowli Hyderabad
and others.

.....Respondents

The Court made the following:

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ORDER : (Per Hon'ble Sri Justice P.Naveen Rao)

Heard learned counsel Smt. B.Namrata Reddy for petitioner and learned counsel Smt. Vedula Chitralekha for respondents.

2. The appellant herein is defendant in O.S.No.230 of 2019. The said suit was instituted praying to direct the defendant to vacate and handover vacant physical possession of the suit schedule property; to direct the defendant to pay Rs.12,87,452/- along with interest at the rate of 18% per annum from the date of filing the suit till the date of realization, and to direct the defendant to pay the damages at the rate of Rs.7,00,000/- per month from the date of suit till the date of vacating and handing over the possession of the suit schedule property. In the said suit the appellant herein filed a counter claim claiming damages of Rs.1,55,50,000/- with interest at the rate of 18% against the plaintiff on the ground that he has incurred huge loss due to the conduct of

the plaintiff with reference to various aspects mentioned in the counter claim.

3. Though the trial Court framed one of the issues on the counter claim, but when it comes to the decision, the trial Court only said that since the suit is decreed in favour of the plaintiffs, the issue of damages claimed against plaintiff were not entitled and accordingly, rejected the counter claim. Aggrieved by the judgment and decree in O.S.No.230 of 2019, C.C.C.A.No.44 of 2022 was filed and this appeal is preferred challenging the decision to the extent of not granting relief in the counter claim.

4. Whether the counter claim is valid and whether the appellant herein is entitled to the damages claimed are matters requiring consideration by the trial Court.

5. Though trial Court framed issue No.4 on the counter claim made by the appellant which also requires leading of evidence and consideration of respective submissions, the trial Court grossly erred in not recording findings on the counter claim. The trial Court could not have summarily recorded that since the claim of plaintiff is accepted, the relief

of damages cannot be granted. We are of the opinion that to that extent the trial Court grossly erred in not deciding the counter claim on its own merits.

6. Therefore, we set-aside the judgment of the trial Court to the extent of Issue No.4, and remit the matter to the trial Court for decision on the counter claim filed by the appellant herein. However, it is open to the parties to lead evidence and raise all pleas as available in law before the trial Court. Accordingly, the City Civil Court Appeal is allowed and remanded to that extent.

Miscellaneous petitions, pending if any, shall stand closed.

P.NAVEEN RAO,J

J.SREENIVAS RAO,J

Date: 31.10.2022
PT

THE HON'BLE SRI JUSTICE P.NAVEEN RAO
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