

THE HON'BLE SRI JUSTICE A.VENKATESHWARA REDDY

APPEAL SUIT NO.36 OF 2016

JUDGMENT:

The unsuccessful defendant in O.S.No.78 of 2013 has filed this appeal suit assailing the judgment and decree dated 30.10.2015 in O.S.No.78 of 2013 on the file of the learned Senior Civil Judge, Adilabad.

2. Plaintiff in O.S.No.78 of 2013 has filed the Original Suit for specific performance of agreement of sale dated 11.03.2011 in respect of plots bearing No.47 and 48 admeasuring 40X50 with precise boundaries as mentioned in the schedule of property, situated at Dhasnapur Village and Mandal of Adilabad District (hereinafter referred as 'suit schedule plots'. The trial Court, upon consideration of the entire material available on record, after full length trial, decreed the suit of the plaintiff directing the defendant to execute registered sale deed in respect of the suit plots by receiving the balance sale consideration of Rs.5,00,000/- with additional sum of Rs.2,50,000/-, totalling to Rs.7,50,000/- and deliver vacant possession of the property to the plaintiff

within one month from the date of judgment and in case defendant fails to receive the said amount and execute the sale deed, the plaintiff is at liberty to deposit the said amount before the trial Court within same time and get the registered sale deed executed through the Court and obtain possession of the suit plots. Feeling aggrieved by the said judgment and decree, the defendant has filed the present appeal suit.

Pleadings of the plaint and written statement :

3. The plaintiff and defendant are the residents of Adilabad. The defendant entered into an agreement of sale with the plaintiff in respect of suit plots on 11.03.2011 agreeing to sell the same for a consideration of Rs.10,00,000/- and received earnest amount of Rs.5,00,000/- on that day. The defendant has further agreed to execute registered sale deed in favour of the plaintiff on or before 25.04.2011 by receiving the balance sale consideration of Rs.5,00,000/-. The plaintiff was always ready to make payment of the remaining sale consideration amount and to obtain sale deed but the defendant has prolonged the matter. Subsequently, the plaintiff has come to know that actually by the date of agreement of sale or even by 25.04.2011 the defendant was

not having title over the suit plots and by way of cheating the plaintiff, the defendant has taken the earnest money from her. Subsequently, on 29.12.2011 the defendant has purchased the suit plots from Smt.Bejjawar Renuka through registered sale deed bearing document No.8400 of 2011 for a consideration of Rs.5,33,000/-. After coming to know about the sale transaction dated 29.12.2011 in favour of the defendant, the plaintiff has approached the defendant and requested him to receive the balance sale consideration and to execute the sale deed but the defendant has refused for the same. Thereafter, the plaintiff has got issued a legal notice dated 07.05.2013, it was served on the defendant on 08.05.2013 and the defendant has issued a reply notice with false allegations on 22.05.2013. Hence, the suit is filed within limitation for specific performance of suit agreement of sale dated 11.03.2011.

4. The defendant has filed a detailed written statement denying the plaint averments. It is agreed that the defendant has entered into agreement of sale dated 11.03.2011 in respect of suit plots for a sum of Rs.10,00,000/- and received earnest money of Rs.5,00,000/-.

However, it was agreed that the balance sale consideration has to be paid and the sale deed has to be obtained on or before 25.04.2011 in the name of the plaintiff but unfortunately the plaintiff has failed to turn up and also failed to perform her part of contract by way of payment of remaining amount of Rs.5,00,000/- and seek execution of registered sale deed in her favour. As such, the defendant has demanded father of the plaintiff for payment of balance sale consideration and he expressed his inability to perform their part of contract. Thus, the plaintiff has failed to perform her part of contract and she has no *locus-standi* to file the suit for specific performance. It is further stated by the defendant that he is the absolute owner of suit schedule plots having purchased the same from its owner Smt.Bejjawar Renuka and Smt.Kulsum Banu through their General Power of Attorney (GPA) holder viz.Shaik Jameel Ahmed on 11.06.2010 and as on the date of entering into agreement itself, father of the plaintiff knew this fact and nothing prevented the plaintiff in contacting the defendant to seek further clarification or demand for refund of the amount. On 11.06.2010 itself, the defendant has purchased the suit plots from its owners under agreement of sale and was

expecting to transfer the suit plots directly on the name of the plaintiff but the plaintiff has miserably failed to pay the balance sale consideration on or before 25.04.2011. As such, sale deed could not be obtained in her favour. The suit is filed almost after two years to 25.04.2011 and plaintiff is not entitled for specific performance of agreement of sale and that suit is also barred by limitation. Accordingly, prayed for dismissal of the suit with costs.

Issues, additional issue, evidence and findings:

5. On the basis of above pleadings, the following issues were framed by the trial Court:

- (1) Whether the plaintiff is entitled for relief of specific performance as prayed for?
- (2) To what relief?

Additional issue was also framed as under:

Whether the plaintiff is entitled for refund of amount with future interest @ 12% p.a. as prayed for?

6. On behalf of plaintiff she herself got examined as PW1 and her father is examined as PW2. In all Exs.A1 to A6 documents are marked on behalf of the plaintiff. Thereafter on behalf of defendant he himself got examined as DW1 and

one of the attestor of Ex.A1 agreement of sale is examined as DW2.

7. The trial Court, upon consideration of the oral and documentary evidence and the rival contentions, decreed the suit of the plaintiff for specific performance. Feeling aggrieved by the same, the unsuccessful defendant has filed the present appeal.

8. Heard the learned counsel on both sides. Submissions made on either side have received due consideration of this Court.

9. In the light of the rival contentions and the material available on record, the following points would arise for consideration:

(i) Whether the plaintiff is entitled for specific performance of suit agreement of sale (Ex.A1)?

(ii) Whether the judgment and decree impugned is sustainable?

10. The parties to this appeal are referred as plaintiff and defendant as arrayed in the Original Suit.

11. For the sake of brevity and convenience, both the points are answered together as under:

Point Nos.(i) and (ii) :

12. The admitted or undisputed facts of the case are that plaintiff and defendant are residents of Adilabad Town and that they have entered into agreement of sale dated 11.03.2011 in respect of suit schedule plots for a consideration of Rs.10,00,000/-. On the date of agreement of sale i.e. on 11.03.2011 the plaintiff has paid Rs.5,00,000/- agreeing to pay the balance amount of Rs.5,00,000/- on or before 25.04.2011 and to obtain registered sale deed. However, the contention of the plaintiff is that either on the date of Ex.A1 i.e. on 11.03.2011 or as on 25.04.2011 the defendant had any title in respect of suit plots and she was pursuing the matter with the defendant. Finally, he has obtained registered sale deed in his favour in respect of suit plots on 29.12.2011 vide registered sale deed document bearing No.8400 of 2011, thereafter she offered to pay the balance sale consideration and requested for execution of sale

deed in her favour, but the defendant has refused for the same. Hence, the suit is filed on 30.06.2013.

13. It is the specific case of the defendant that he was not having valid title in his favour in respect of suit plots either as on 11.03.2011 or as on 25.04.2011 but he has entered into agreement of sale dated 11.06.2010 with the original owners and that he was proposing to get the sale deed executed directly on the name of the plaintiff and that the owners Smt.Bejjawar Renuka and Smt.Kulsum Banu through their GPA holder Shaik Jameel Ahmed have entered into agreement of sale with him but the plaintiff has failed to pay the balance sale consideration by 25.04.2011 as agreed to inspite of repeated requests by the defendant and she is not entitled for specific performance of agreement of sale.

14. To substantiate her case, on behalf of the plaintiff, she herself got examined as PW1. In her evidence, Exs.A1 to A5 documents are marked. Whereas, in the evidence of her father (PW2), Ex.A6 statement of bank account of her father is marked. In chief-examination of PW1 the averments of the plaint are reiterated. Whereas, in cross-examination PW1 has

admitted that as per the terms of Ex.A1 agreement of sale dated 11.03.2011 she has to pay the balance sale consideration of Rs.5,00,000/- on or before 25.04.2011 and obtain the registered sale deed. She has explained that she came to know that the defendant has got no valid title accordingly she could not pay the amount and that the balance amount was readily available with her father. She has admitted that as on the date of Ex.A2 legal notice dated 07.05.2013, there was increase in the price of the suit plots and that she has filed the suit on 30.06.2013, not deposited the balance sale consideration. She denied the suggestion that she is not willing to perform her part of contract.

15. PW2 is the father of PW1. He has filed his evidence affidavit in support of plaintiff's case. In his evidence Ex.A6 statement of his bank account is marked in proof of availability of funds with the plaintiff. In the cross-examination PW2 admitted that plaintiff was a student as on the date of filing of the suit, she has no income of her own, he did not verify the title documents of the defendant, he had no other prior transactions with the defendant, Ex.A1 was only obtained by him on the name of his daughter and that he is

not aware as to whether the defendant has entered into agreement of sale with the original owners. He denied the suggestion that defendant was ready and willing to perform his part of contract and the plaintiff failed to pay the balance sale consideration of Rs.5,00,000/- as agreed on or before 25.04.2011.

16. The defendant has filed his evidence affidavit in lieu of chief examination as DW1 reiterating the averments in the written statement. No documents are marked in his evidence. In the cross-examination this witness stated that he received earnest money of Rs.5,00,000/- on the date of Ex.A1. He also admitted that he obtained registered sale deed on 29.12.2011 for the suit plots from Smt.Bejjawar Renuka and Smt.Kulsum Banu through their GPA holder Shaik Jameel Ahmed and explained that he has obtained ordinary sale deed from them prior to 11.03.2011 itself and that he purchased the suit plots for a consideration of Rs.5,33,500/-.

17. DW1 has categorically explained that he has not filed any document to show that he became the title holder of suit plots on the date of execution of Ex.A1. He denied the

suggestion that he had no valid sale deed either on the date of Ex.A1 or on 11.06.2010, and explained that he got issued a reply notice under Ex.A5 to the Ex.A2 notice but he has not demanded PW1 for payment of balance sale consideration at any point of time.

18. DW2 is the attesor of Ex.A1, filed his evidence affidavit in support of defendant's case. In the cross-examination this witness has stated that PW1 has agreed to purchase open plots under Ex.A1 for which he was the attesting witness and he does not know whether DW1 gave a notice to PW1 repudiating the agreement under Ex.A1 and he does not know whether DW1 was the owner and possessor of the suit plots as on the date of Ex.A1.

19. Now let me examine the documentary evidence filed on behalf of the plaintiff. Be it stated that no document is either filed or marked on behalf of defendant. Ex.A1 is the suit agreement of sale dated 11.03.2011 between plaintiff and defendant. This document is admitted by the defendant including receipt of the earnest money of Rs.5,00,000/-. However, the contention of the defendant is that the plaintiff

has failed to pay the balance sale consideration of Rs.5,00,000/- on or before 25.04.2011 and she is not entitled for specific performance of agreement of sale. To prove this aspect of his defence the defendant himself got examined as DW1 and also examined the attesting witness as DW2. As per the pleadings in the written statement the defendant has set up his defence for the first time that he has obtained a simple sale deed from the original owners through their GPA holder on 11.06.2010 and he was expecting to get the registered sale deed executed directly on the name of plaintiff on payment of balance sale consideration by 25.04.2011. It is pertinent to note that the defendant has not filed any such agreement of sale or unregistered sale deed dated 11.06.2010 said to have been executed in his favour. Though DW2 is examined on behalf of defendant, this witness has categorically stated that he does not know whether the defendant was the owner and possessor of suit plots as on the date of Ex.A1.

20. Ex.A2 is the legal notice, got issued on behalf of the plaintiff calling upon the defendant for execution of registered sale deed specifically stating that the plaintiff was ever willing to perform her part of contract but the defendant

was not having saleable title in respect of suit schedule plots as such, she could not pay the balance sale consideration to the defendant on or before 25.04.2011 and that subsequently she has come to know that the defendant has obtained registered sale deed document bearing No.8400 of 2011 on 29.12.2011 for a consideration of Rs.5,33,000/-, accordingly requested the defendant for execution of sale deed in her favour by receiving the balance sale consideration of Rs.5,00,000/-.

21. The defendant has got issued a reply notice as in Ex.A5 denying the averments in the legal notice/Ex.A2. Curiously nowhere in the entire recitals of Ex.A5 it is mentioned as to his entering into agreement of sale or obtaining a simple sale deed from the original owners through their GPA holder on 11.06.2010. Thus, the defence of the defendant that he was having a simple sale deed or agreement of sale in his favour from the original owners through their GPA holder as on 11.06.2010 is only set up in the written statement but such document has not seen the light of the day till date. If really the defendant was having any such simple sale deed or agreement of sale dated 11.06.2010 from

the original owners Smt.Bejjawar Renuka and Smt.Kulsum Banu through their GPA holder Shaik Jameel Ahmed he would have definitely filed the document before the trial Court. But curiously nothing is mentioned about the agreement of sale or simple sale deed either in the Ex.A1 suit agreement of sale or in the reply notice Ex.A5. For the first time it is pleaded in his written statement and failed to file the same. He is withholding the said valuable piece of documentary evidence as such adverse inference under Section 114 (g) of the Indian Evidence Act has to be drawn against the defendant.

22. Ex.A3 is the agreement of sale – cum – General Power of Attorney dated 07.05.2010. It was executed by Smt.Bejjawar Renuka as GPA holder of Sri Ankath Sambashiv, Sri Ankath Anand and Smt.Kulsum Banu as vendors in favour of Sri Shaik Jameel Ahmed in respect of suit plots. This document is filed by the plaintiff and it is not disputed by the defendant. Even as per this document, Smt.Bejjawar Renuka and Smt.Kulsum Banu have executed agreement of sale-cum-GPA in favour of Shaik Jameel Ahmed on 07.05.2010. Nothing is mentioned in the said document that GPA holder Shaik Jameel Ahmed has agreed to sell the suit plots in favour

of the defendant. Ex.A4 is the certified copy of sale deed document bearing No.8400 of 2011, it is dated 29.12.2011, executed by the said Shaik Jameel Ahmed, GPA holder of Smt.Bejjawar Renuka and Smt.Kulsum Banu, in favour of the defendant in respect of suit plots for a total consideration of Rs.5,33,000/-. Nowhere in the entire recitals in Ex.A4 it is mentioned about the earlier agreement of sale or simple sale deed dated 11.06.2010. Thus, the defence set up by the defendant that he has entered into a simple sale deed or agreement of sale dated 11.06.2010 from the original owners through their GPA holder and that he was expecting to get the registered sale deed directly executed by the GPA holder of the original owners on the name of plaintiff has no legs to stand and it is not established.

23. Ex.A6 is the statement of account of PW2. This document is only filed to show that the plaintiff was having sufficient amount in the bank account of her father and she was ever willing to perform her part of contract. Undisputedly, the plaintiff was a student as on the date of Ex.A1 and she has no independent source of income. It is further established with the evidence of PWs.1 and 2 that earlier an amount of

Rs.5,00,000/- was also paid by PW2 and that PW2 was willing to perform the contract on behalf of plaintiff by paying the balance sale consideration and but for the fact that the defendant was not having saleable title either as on the date of Ex.A1 or as on 25.04.2011, the plaintiff could not pay the balance sale consideration of Rs.5,00,000/- and obtain sale deed. It is further established on behalf of the plaintiff that subsequently only on 29.12.2011 the defendant has obtained registered sale deed in respect of the suit plots from Shaik Jameel Ahmed as GPA holder of Smt.Bejjawar Renuka and Smt.Kulsum Banu under the original of Ex.A4. As such, as a prudent purchaser the plaintiff could not pay the amount of Rs.5,00,000/- by 25.04.2011. Even otherwise, if she had paid the said amount, the defendant was not in a position to execute the sale deed as mentioned in Ex.A1 for the simple reason that either as on the date of Ex.A1 or as on 25.04.2011 or till 29.12.2011 the defendant was not having saleable right, interest over the suit schedule plots and he cannot convey any better title in favour of the plaintiff by 25.04.2011.

24. The learned counsel for the appellant/defendant strenuously contends that as per Ex.A1 time is essence of the

contract, the plaintiff has failed to pay the balance sale consideration on or before 25.04.2011 as agreed to and she is not entitled for specific performance of suit agreement of sale and that the suit is hopelessly barred by limitation. Learned counsel for the appellant/defendant has relied on the principles laid in the following decisions:

- (1) **N.P.Thirugnanam (Dead) by LRs. Vs.Dr.R.Jagan Mohan Rao and others¹.**
- (2) **Sardar Amarjeet Singh Vs. Nanda Bai and others².**
- (3) **P.Kupparaju Vs. A.Tyagaraju³.**
- (4) **Daparthi Seetharamayya and others Vs. Karukuri Chinna Satyam @ Chinna Sathi Raju and another⁴.**
- (5) **Vallepu Ankamma Vs. Pallapu Kondaiah and others⁵.**

25. I have carefully perused the principles laid in the above decisions. The cumulative effect of the principles laid in the above decisions is that the plaintiff in the absence of showing readiness and willingness to perform his part of contract for purchase of immovable property is not entitled for specific performance of contract more particularly, when the agreement of sale stipulates that the transaction has to be concluded by a certain date and if the amount was not paid by

¹ (1995) 5 Supreme Court Cases 115

² 1998 (5) ALD 697 (DB)

³ 2013 (4) ALT 314

⁴ 2014 (1) ALD 762 (DB)

⁵ 2014 (3) ALD 126

that date, it must be concluded that time is essence of the contract and the party is not entitled for enforcement of the said agreement of sale at a later period. Since whenever time is mentioned in the agreement of sale for payment of consideration, it would indicate the urgency involved.

26. Reverting back to the facts of the instant case, as discussed in the preceding paragraphs, defendant was not having title either as on the date of agreement of sale under Ex.A1 or on the date of time stipulated for payment of balance sale consideration i.e. as on 25.04.2011, but he has obtained registered sale deed under the original of Ex.A4 only on 29.12.2011. Though he has set up the plea of purchase of suit plots under simple sale deed or under agreement of sale on 11.06.2010 no such document is filed by him and nothing is mentioned to that effect in Ex.A4. As stated supra such plea of simple sale deed dated 11.06.2010 was not mentioned either in Ex.A1 or in the reply notice Ex.A5 and for the first time pleaded in his written statement but failed to file the same. As such, it cannot be said that time is the essence of contract in the case on hand. Even if the plaintiff had paid the balance sale consideration, the defendant was not in a

position to execute sale deed or convey title in favour of the plaintiff in respect of suit plots.

27. The plaintiff as a prudent purchaser, immediately after coming to know about Ex.A4 dated 29.12.2011, appears to have approached the defendant. She has also mentioned the same in Ex.A2 legal notice issued by her calling upon the defendant to receive the balance sale consideration and to execute registered sale deed since he has obtained Ex.A4 from the original owners. But instead of proceeding with execution of registered sale deed the defendant has issued Ex.A5 reply notice with vague allegations and there is no mention in the entire contents of Ex.A5 as to the simple sale deed dated 11.06.2010 or any such agreement of sale from Smt.Bejjawar Renuka and Smt.Kulsum Banu through their GPA holder Shaik Jameel Ahmed. The said simple sale deed dated 11.06.2010 has not seen the light of the day till date.

28. The law is well settled that normally in regard to contracts relating to sale of immovable property, time is not considered to be essence of contract unless such an intention can be gathered either from the express terms of the contract or by implication. Even if time were to be of the essence, the

question that would further arise is whether it is for the contract as a whole or with reference to performance of a particular obligation. In a contract relating to sale of immovable property, if time is stipulated for payment of sale price but not for execution of sale deed, then time will be of the essence only for payment of sale price. If the vendor discloses in the agreement the reason for the sale and the reason for stipulation as to time to meet urgent needs like medical or education expenses, the intention to make time as essence of contract is manifest (**Saradamani Kandappan Vs.S.Rajalakshmi and others**⁶).

29. Here in the instant case there is no such averment in Ex.A1 to show that the defendant was in urgent need of money. In the given factual matrix of the case as the defendant was not having title either as on the date of Ex.A1 or as on 25.04.2011, even if the plaintiff has paid the balance sale consideration, the defendant was not in a position to convey title, possession whatsoever in respect of suit schedule property in favour of the plaintiff. As such, the principles laid in the decisions relied upon by the learned counsel for

⁶ AIR 2011 SC 3234

appellant/defendant will not come to rescue the appellant/defendant in any way.

30. The law is well settled that the readiness and willingness of plaintiff as per Section 16(c) of the Specific Relief Act could not be construed hyper-technically and the facts, circumstances of each case, intention and conduct of the parties concerned, have to be considered, entirety of the facts and circumstances alone are relevant in determining the willingness of the plaintiff to perform her part of contract. Thus, as per the principles codified under Section 16(c) of the Specific Relief Act the readiness and willingness cannot be treated as a straight-jacket formula and they have to be determined from the entirety of facts and circumstances relevant to the intention and conduct of the parties concerned. The continuous readiness and willingness at all stages from the date of agreement till the date of hearing of the suit need to be proved. The substance of the matter and surrounding circumstances including the conduct of the plaintiff must be taken into consideration in adjudging readiness and willingness to perform the part of the contract of the plaintiff. If the material on record clearly and sufficiently demonstrate

plaintiff's readiness and willingness, the plaintiff should not be non-suited. (**Jugraj Singh and another vs.Labh Singh and others⁷**).

31. Further, the defendant was not having title in respect of suit schedule plots as on Ex.A1 or as on the date stipulated in Ex.A1 for execution of registered sale deed and payment of sale consideration i.e. as on 25.04.2011 and it is only on 29.12.2011 the defendant has obtained registered sale deed in his favour in respect of suit schedule plots and there is no mention of any earlier agreement of sale or unregistered sale deed in favour of the defendant in Ex.A4.

32. Section 13 of Specific Relief Act deals with rights of purchaser or lessee against a person with no title or imperfect title. The principle underlying this Section is that where a person contracts to sell or let property in which he has no title or only an imperfect title, but later on acquires some interest in it, he must "make good the conduct" out of that interest subsequently acquired. It is settled law that the vendor is not entitled to put forward in a suit for specific performance by the purchaser the defence that the vendor had no title or defective

⁷ AIR 1995 SC 945

title. If the vendor agrees to sell property real or personal of which he is not possessed at the time, and he receives the consideration for the contract and afterwards becomes possessed of the property answering the description in the contract, the Court of equity would compel the vendor to perform the contract and transfer the beneficial interest to the purchaser immediately on the property being acquired. (**Mir Abdul Vs. Abdul**⁸).

33. Thus, Section 13(1)(a) of Specific Relief Act applies only so long as the matter is still at the stage of contract. The expression “contracts to sell or let certain property” would mean subsequent to agreement to sell or let and not subsequent to execution of sale or lease deed. Where an actual transfer has been made of non-existent property, Section 43 of Transfer of Property Act, 1882 may apply but not Section 13 of Specific Relief Act. Therefore, viewed from any angle, the defence set up by the appellant/defendant has no legs to stand in view of the simple fact that either as on the date of Ex.A1 or as on the date of time stipulated therein for payment of balance sale price he had no saleable interest or

⁸ AIR 1972 AP 178

title whatsoever in respect of the suit plots to convey the same to the plaintiff and it is only under the original of Ex.A4 on 29.12.2011, much subsequent to Ex.A1 and on the date mentioned therein, he has obtained a registered sale deed and immediately thereafter as a prudent purchaser the plaintiff has got issued Ex.A2 legal notice calling upon the defendant to execute sale deed in her favour by receiving the balance sale consideration. But the defendant failed to execute registered sale deed. Hence, the suit is filed within the limitation.

34. As per the judgment and decree impugned, the learned Judge of the trial Court while considering the subsequent hike in the prices, in paragraph No.13 of the impugned judgment, has categorically directed the plaintiff to pay additional amount of Rs.2,50,000/- to the defendant/DW1 in addition to the balance sale consideration of Rs.5,00,000/- as such, the plaintiff was directed to pay a total sum of Rs.7,50,000/- to the defendant within one month from the date of judgment and decree, on which the defendant shall execute registered sale deed.

35. Be it stated that to prove that plaintiff is ever ready and willing to perform her part of contract, she herself got

examined as PW1 and also examined her father as PW2. In the evidence of PW2 Ex.A6 statement of his bank account is marked wherein sufficient amount is found throughout the period right from Ex.A1 till the date of giving evidence.

36. All these facts and circumstances coupled with the conduct of plaintiff in issuing legal notice as in Ex.A2, pursuing the matter with the defendant for execution of sale deed would establish her intention to obtain the sale deed and she was ever ready and willing to perform her part of contract by paying balance sale consideration of Rs.5,00,000/- and the additional amount of Rs.2,50,000/- as directed by the trial Court.

37. Be it stated that the plaintiff did not file any cross objections or cross appeal against such direction of the trial Court for payment of additional amount of Rs.2,50,000/- in addition to the balance sale consideration of Rs.5,00,000/-. Therefore, in such facts and circumstances of the case, I do not find any infirmity or irregularity in the findings recorded by the trial Court. The judgment and decree impugned dated 30.10.2015 in O.S.No.78 of 2015 does not warrant any

interference by this Court and it is sustained. Accordingly, point Nos.(i) and (ii) are answered in favour of the respondent/plaintiff and against the appellant/defendant.

38. In the result, the appeal suit is dismissed with costs confirming the impugned judgment and decree dated 30.10.2015 in O.S.No.78 of 2013 on the file of the learned Senior Civil Judge, Adilabad in its entirety.

As a sequel, miscellaneous applications, if any pending, shall stands closed.

A.VENKATESWHARA REDDY, J

Dated :04-01-2023
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