

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

TUESDAY, THE TWENTY SECOND DAY OF APRIL
TWO THOUSAND AND TWENTY FIVE



PRESENT

THE HONOURABLE SRI JUSTICE VENUTHURUMALLI GOPALA KRISHNA RAO

SA NO: 276 OF 2019

Second Appeal Under Section 100 CPC against the order dated against the decree and Judgment dated 23.03.2019 passed in AS No. 5 of 2016 on the file court of the Learned III Additional District Judge, Bhimavaram, West Godavari District confirming the Decree and Judgment, dated 16.12.2015 passed in OS No. 19 of 2009 on the file of the Court of the I Additional Junior Civil Judge, Bhimavaram, West Godavari District

Between:

Aitha Venkata Rama Rao, S/o. Venkata Subbaiah, Aged about 52 Years, Occ. Business, R/o. Door No. 22-12-52, Venkata Rama Talkies Road, Bhimavaram, West Godavari District

...APPELLANTS

AND

1. Bondada Sree Ramakrishna Paramahamsa (Died), S/o. Late Ranga Rao, aged about 71 Years, R/o. Door No.3-11-25, Gali Vari Layout, Behind Kishore Talkies, Bhimavaram, West Godavari District
2. Bondada Satya Prasada Rao, S/o. Late Ranga Rao, aged about 66 Years, R/o. Door No.9-57, Lalitha Nagar Colony, Dilshuk Nagar, Hyderabad (Died)
3. Smt. Bondada Annapurna, W/o. Late Satya Prasada Rao, Aged about 60 Years, Properties, R/o. Door No.9-57, Lalitha Nagar Colony, Dilshuk Nagar, Hyderabad
4. Penugonda Neelima, W/o. Srinivas, D/o. Late Bondada Satya Prasada Rao, Aged about 34 Years, House Wife, R/o. Door No.9-57, Lalitha Nagar Colony, Dilshuk Nagar, Hyderabad, City Civil Court, Hyderabad
5. Appana Naga Kumari, W/o Venkateswara Rao, aged about 56 years, H.No.32-1-73/2, KVR Swamy Road, Rajamundry (Urban), East Godavari District.

(As per C.O. dt.22.04.2025, Name of the Respondent No.5 is amended, vide memo 40978/25)

6. Chitluri Nagapadmanjali, W/o. Chinna Krishna Rao, Aged about 61 years, D.No.8-199/1, Rajaka Street, Near GBG Road, Chintalapudi, West Godavari District.

(Respondent Nos. 5 and 6 are brought on record as LR's of deceased respondent No.1, vide I.A.No.5 of 2024 in S.A. No.276 of 2019, as per the Court Order Dt. 29.01.2025)

7. Bondada Naga Venkata Siva Nageswara Rao, S/o Raju, aged about 40 years, R/o 23-1-20, Sarraju Street, Bhimavaram, West Godavari District-534 201, Andhra Pradesh.
8. Perumalla Lakshmi Kanaka Durga, W/o Venkata Rama Krishna Prasad, aged about 61 years, R/o 1-8, V.N. Colony, Saripalli Village, Ganapavaram Mandal, West Godavari District-534198, Andhra Pradesh.
9. Bondada Bangaru Lakshmi, W/o Kumara Venkata Ratnam, aged about 45 years, R/o 20-3-21, Katari Street, Opp. Gudiwada Venkateswar Rao, Bhimavaram, Bhimavaram Town, West Godavari District-534201, Andhra Pradesh.
10. Bonda Naga Venkata Chiranjivi Krishna Chaitanya Kumar, S/o Raju, aged about 38 years, R/o 23-1-20, Sarraju Street, Bhimavaram, West Godavari District-534 201, Andhra Pradesh.

(As per Court Order dated 28.02.2025, Respondent Nos. 7 to 10 are impleaded on record, vide I.A.No.1 of 2022 in S.A. No.276 of 2019)

...RESPONDENTS

IA NO: 2 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to extend the interim orders dated 13.06.2019 in IA. No. 1 of 2019 in SA. No. 276 of 2019 until the disposal of Second Appeal No. 276 of 2019

IA NO: 3 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to extend interim orders dated 11.07.2019 in IA. No. 1 of 2019 in SA. No. 276 of 2019 until the disposal of Second Appeal No. 276 of 2019

IA NO: 5 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to extend interim orders dated 11.07.2019 in IA. No. 1 of 2019 in SA.No. 276 of 2019 until the disposal of the Second Appeal No.276 of 2019

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to extend the interim orders in I.A. No. 1 of 2019 in S.A. No. 276 of 2019

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Appellants/Respondent No. 1 to pay all the unpaid arrears of rent from November 2008 to till date with interest at the cost of Rs 500 per day as imposed in O.S. No 19 of 2019, which reached to Rs. 17,55,000/-, after deductions and order to deliver the possession of the Suit Schedule Property forthwith to the petitioners

IA NO: 2 OF 2024

Between:

1. Bondada Sree Ramakrishna Paramahamsa (Died), S/o. Late Ranga Rao, aged about 71 Years, R/o. Door No.3-11-25, Gali Vari Layout, Behind Kishore Talkies, Bhimavaram, West Godavari District
2. Bondada Satya Prasada Rao, S/o. Late Ranga Rao, aged about 66 Years, R/o. Door No.9-57, Lalitha Nagar Colony, Dilshuk Nagar, Hyderabad (Died)
3. Smt. Bondada Annapurna, W/o. Late Satya Prasada Rao, Aged about 60 Years, Properties, R/o. Door No.9-57, Lalitha Nagar Colony, Dilshuk Nagar, Hyderabad

4. Penugonda Neelima, W/o. Srinivas, D/o. Late Bondada Satya Prasada Rao, Aged about 34 Years, House Wife, R/o. Door No.9-57, Lalitha Nagar Colony, Dilshuk Nagar, Hyderabad, City Civil Court, Hyderabad
5. Appana Naga Kumari, W/o Venkateswara Rao, aged about 56 years, H.No.32-1-73/2, KVR Swamy Road, Rajamundry (Urban), East Godavari District.

(As per C.O. dt.22.04.2025, Name of the Respondent No.5 is amended, vide memo 40978/25)

...PETITIONER / PLAINTIFF / RESPONDENTS 1-4

6. Chitluri Nagapadmanjali, W/o. Chinna Krishna Rao, Aged about 61 years, D.No.8-199/1, Rajaka Street, Near GBG Road, Chintalapudi, West Godavari District.

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(As per Court Order dated 28.02.2025, Respondent Nos. 7 to 10 are impleaded on record, vide I.A.No.1 of 2022 in S.A. No.276 of 2019)

AND

Aitha Venkata Rama Rao, S/o. Venkata Subbaiah, Aged about 52 Years, Occ. Business, R/o. Door No. 22-12-52, Venkata Rama Talkies Road, Bhimavaram, West Godavari District

...RESPONDENT / APPELLANTS

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to vacate the interim order granted by this Court in IA. No. 1 of 2019 in S.A. No 276 of 2019 on 13.06.2019 and extended from time to time

Counsel for the Appellants : SRI. RAVITEJA PADIRI
Counsel for the Respondents: SRI. HARINADH NIDAMANURI

The Court made the following:

HONOURABLE SRI JUSTICE V. GOPALA KRISHNA RAO**Second Appeal No.276 of 2019****Judgment:**

This second appeal is filed aggrieved against the Judgment and decree dated 23-3-2019 in A.S.No.5 of 2016 on the file of the III Additional District Judge, Bhimavaram, West Godavari District, confirming the Judgment and decree dated 16-12-2015 in O.S.No.19 of 2009 on the file of the I Additional Junior Civil Judge, Bhimavaram.

2. The appellant herein is the defendant and the respondents 1 to 4 herein are the plaintiffs in O.S.No.19 of 2009 on the file of the I Additional Junior Civil Judge, Bhimavaram. Respondents 5 and 6 are brought on record as legal representatives of deceased respondent No.1. Respondents 7 to 10 are impleaded on record in the second appeal as per the orders in I.A.No.1 of 2022.

3. The plaintiffs 1 and 2 initiated action in O.S.No.19 of 2009 on the file of the I Additional Junior Civil Judge, Bhimavaram, with a prayer for recovery of possession of the plaint schedule premises after evicting the defendant and for damages for unauthorized occupation of schedule premises. During the pendency of the suit, plaintiffs 3 and 4 were added as legal representatives of the deceased 2nd plaintiff as per orders dated 24-6-2014 in I.A.No.217 of 2012.

4. The learned I Additional Junior Civil Judge, Bhimavaram, decreed the suit with costs directing the defendant to deliver possession of the plaint schedule shop room to the plaintiffs 1, 3 and 4 after his eviction and also to pay damages at the rate of Rs.500/- per day for unauthorized use and occupation of the plaint schedule property from 01-11-2008 till delivery of possession of the plaint schedule property. Felt aggrieved of the same, the unsuccessful defendant in the above said suit filed the aforesaid appeal suit before the first appellate Court. The learned III Additional District Judge,

Bhimavaram, dismissed the first appeal with costs by confirming the judgment and decree passed by the trial Court. Aggrieved thereby, the unsuccessful defendant/appellant approached this Court by way of second appeal.

5. For the sake of convenience, both parties in the second appeal will be referred to as they are arrayed in the original suit.

6. The case of the plaintiffs, in brief, as set out in the plaint averments in O.S.No.19 of 2009, is as follows:

(a) It is pleaded that the plaint schedule property originally belonged to one Smt. Bondada Sesharatnam, mother of plaintiffs 1 and 2, who executed a registered settlement deed on 17-01-1983 in favour of plaintiffs 1 and 2 by reserving life interest for herself and by giving vested remainder rights in the schedule property to her sons, the plaintiffs 1 and 2 herein. The said settlement deed was duly attested and accepted by the plaintiffs 1 and 2. Smt. Sesharatnam died on 10-5-2005, hence the donees have acquired absolute rights in the schedule property and they became absolute owners of the same.

(b) It is further pleaded that the defendant is the tenant of the plaint schedule premises since 01-11-2002 by taking the schedule property on lease from the said Sesharatnam and both of them entered into a registered lease agreement dated 23-01-2003, which discloses that the period of lease is for six years i.e. from 01-11-2002 to 31-10-2008, that the lessee-defendant has to pay a monthly rent of Rs.5,000/- to the lessor Smt. Bondada Sesharatnam, that the lessee has to obtain receipt for payment of the monthly rent and that the lessee-defendant shall not give the plaint schedule property on sub-lease to anybody. The said registered lease deed dated 23-01-2003 also stipulates that the lessee-defendant shall vacate the lease hold plaint schedule property immediately after the lease period is over and if the defendant fails to vacate the schedule premises, he has to pay Rs.500/- per day towards damages for use and occupation. The defendant attorned to the plaintiffs 1 and 2 after the death of their mother and used to pay the rentals to them.

(c) It is further pleaded that prior to expiry of the lease period, the plaintiffs 1 and 2 requested the defendant to vacate the plaint schedule property and to deliver vacant possession of the same to them since they need the plaint schedule shop for their own business and also since the lease period is coming to an end. The plaintiffs 1 and 2 through their Advocate's notice dated 13-9-2008 terminated the tenancy with regard to the schedule property and demanded the defendant to vacate the plaint schedule property and to deliver vacant possession of the same by 31-10-2008 midnight. The defendant sent a reply dated 29-9-2008 through his Advocate with false allegations and that the plaintiffs 1 and 2 are constrained to file the suit.

(d) It is further pleaded that the 2nd plaintiff died intestate on 21-3-2011 leaving his wife and daughter, who are the plaintiffs 3 and 4, as his Class-I legal heirs and representatives. The parents of the 2nd plaintiff predeceased him. As such, after the death of 2nd plaintiff, his entire estate devolved on the plaintiffs 3 and 4. The plaintiffs 3 and 4 have entered into shoes of the deceased 2nd plaintiff in respect of his entitlement of the suit reliefs.

7. The defendant filed written statement denying the contents of plaint averments and further contended as follows:

(a) The defendant denied the allegations made in para-4 of the plaint that he is the tenant of the plaint schedule premises since 01-11-2002 and he has taken the schedule property on lease from the said Bondada Sesharatnam and both of them entered into a registered lease agreement dated 23-01-2003 and invented for the purpose of this false suit only. The defendant admitted that Bondada Sesharatnam is the absolute owner of the schedule property. It is contended that originally, the defendant has taken the said shop from the said deceased Sesharatnam in the year 1998 for a monthly rental of Rs.2,500/- and started the business of fancy goods. He used to pay the monthly rentals regularly to the said Sesharatnam and by that time, the said shop which was taken on lease by the defendant is a small room. After some period, the said Sesharatnam enhanced the rent to the said

shop to Rs.5,000/- and he agreed for the same and used to pay the enhanced rent regularly till that day without fail.

(b) It is further contended that after some time in the year 2003, the said Sesharatnam requested the defendant to put the said lease on paper and register the same in order to obtain some loans from the Bank. As requested by the said Bondada Sesharatnam, the defendant executed the said lease agreement dated 23-01-2003 and the said lease deed was registered incorporating some formal terms and conditions for the sole purpose of securing loans from the Banks by the said Bondada Sesharatnam, since the said lease agreement was prepared only for the purpose of obtaining bank loans.

(c) It is further contended that in the year 2006, after the life time of the said Bondada Sesharatnam, the plaintiffs 1 and 2 requested the defendant to construct 2nd floor on the 1st floor of the said shop with the money of the defendant and he need not pay rent for the said 2nd floor for 12 years and adjust the rent for the 2nd floor payable by the defendant for 12 years towards the money spent by him for the construction of the said 2nd floor and assured that the defendant can continue in the said shop for 12 more years. As per the advice and encouragement of plaintiffs 1 and 2, the defendant constructed 2nd floor on the said shop by spending nearly Rs.3,50,000/- and occupied the same as on the date of its completion of the construction.

(d) It is further contended that neither the said Bondada Sesharatnam nor plaintiffs 1 and 2 paid any amount which was incurred to the defendant towards the said constructions i.e., 1st floor and 2nd floor and on the other hand, it was informed to the defendant repeatedly by the said Bondada Sesharatnam and plaintiffs 1 and 2 that they will allow the defendant in the said shop to continue his business even after 30-10-2008 and the defendant can continue his business up to 2018 i.e., 12 years after the construction of the 2nd floor and the defendant can ignore the said lease agreement and the conditions and damages mentioned therein.

(e) It is further contended that now, after spending huge amounts by the defendant towards cost of construction as well as improving his business, the plaintiffs knowing fully well about the assurances and representations made to the defendant by the said deceased Bondada Sesharatnam and plaintiffs 1 and 2 and without offering anything to the defendant and with an intention to cause wrongful loss to the defendant and to gain unlawfully taking advantage of the defendant's innocence and goodness, plaintiffs 1 and 2 hatched a plan and got filed the present suit.

(f) It is further contended that the said agreement was prepared only for the purpose of securing loans from the banks by the said deceased Bondada Sesharatnam. The plaintiffs 1 and 2 have refused to receive the rent for the month of November when the defendant sent the said rent by cash to the 1st plaintiff and through D.D. to the 2nd plaintiff as usually, therefore the defendant got issued a notice dated 09-01-2009 requesting the plaintiffs 1 and 2 to receive the rent for the month of November and after receipt of the said notice, the plaintiffs 1 and 2 got issued a reply dated 12-01-2009 with false and untenable allegations and the said notice dated 09-01-2009 and the said reply notice dated 12-01-2009 are filed along with the written statement. The defendant is entitled to continue in the said shop till 2012 as per the oral assurances given by the said Bondada Sesharatnam and plaintiffs 1 and 2. Therefore, it is prayed to dismiss the suit with costs.

8. On the basis of above pleadings, the learned I Additional Junior Civil Judge, Bhimavaram, framed the following issues for trial:

- (1) Whether the plaintiffs are entitled for delivery possession ?
- (2) Whether the plaintiffs are entitled for damages ?
- (3) Whether the plaintiffs are entitled for future damages ? and
- (4) To what relief ?

9. During the course of trial in the trial Court, on behalf of the plaintiffs, P.Ws.1 and 2 were examined and Exs.A-1 to A-7 were marked. On behalf of

the defendant, D.Ws.1 and 2 were examined and Exs.B-1 to B-6 were marked.

10. The learned I Additional Junior Civil Judge, Bhimavaram, after conclusion of trial, on hearing the arguments of both sides and on consideration of oral and documentary evidence on record, decreed the suit with costs. Felt aggrieved thereby, the unsuccessful defendant filed the appeal suit in A.S.No.5 of 2016 before the learned III Additional District Judge, Bhimavaram, wherein, the following points came up for consideration.

(1) Whether the plaintiffs 1, 3 and 4 are entitled to get the defendant evicted from plaint schedule shop ?

(2) Whether the plaintiffs 1, 3 and 4 are entitled to get past and future damages ?

(3) Whether the judgment of trial Court suffers from any irregularity or illegality ?

(4) If so, whether the interference of this appellate Court is required to meet the ends of justice ? and

(5) To what point ?

11. The learned III Additional District Judge, Bhimavaram, i.e., the first appellate Judge, after hearing the arguments, answered the points, as above, against the defendant/appellant and in favour of the plaintiffs/respondents and dismissed the appeal suit filed by the defendant. Felt aggrieved of the same, the unsuccessful defendant in O.S.No.19 of 2009 filed the present second appeal before this Court.

12. After institution of the second appeal by the defendant in the suit, this Court ordered notice to the respondents before admission and the said notice is served on the respondents/plaintiffs. Heard Sri Ravi Teja Padiri, learned counsel for the appellant/defendant and Sri A. Satya Prasad, learned Senior Counsel, representing Sri N. Bharath Simha Reddy and Sri Prakash Buddarapu, learned counsel appearing for the respondents/plaintiffs.

13. It has to be kept in mind that the right of appeal is neither a natural nor an inherent right attached to the litigation. It is regulated in accordance with law. A second appeal preferred under Section 100 of CPC could be admitted only when the appellant satisfies this Court that substantial question of law between the parties arise in this case. A proper test for determining whether a question of law raised in the case is substantial would be or whether it directly and substantially affects the rights of the parties and if so, whether it is either an open question in the sense that it is not finally settled by the superior Courts or is not free from difficulty or cause for discussion of alternative views. In the case of **Boodireddy Chandraiah v. Arigela Laxmi**¹, the Apex Court held that it is not within the domain of the High Court to investigate the grounds on which the findings were arrived at by the last Court of fact viz., the first appellate Court. In a case where from a given set of circumstances two inferences of facts are possible, one drawn by the lower appellate Court will not be interfered by the High Court in a second appeal. Adopting any other approach is not permissible. Where, the facts required for a point of law have not been pleaded, a litigant should not be allowed to raise that question as a substantial question of law in second appeal. The mere appreciation of facts, the documentary evidence and the contents of the documents cannot be held to be raising a substantial question of law.

14. The defendant having chosen to invoke the jurisdiction of this Court under Section 100 of Civil Procedure Code, it is for him to meet the above principles and satisfy the Court whether there exists any substantial question of law.

15. This second appeal is filed against the concurrent findings arrived by both the Courts below, therefore the grounds urged in the second appeal are to be scrutinized to find out whether the appellant has shown any substantial question of law. The contention of the appellant is that the

¹(2007) 8 SCC 155

judgment and decree of the trial Court as well as the first appellate Court are contrary to law and that the second appeal may be allowed by setting aside the judgment and decree passed by both the Courts below i.e. the trial Court and the first appellate Court.

16. It is not in dispute by both sides that the plaint schedule property originally belongs to the mother of plaintiffs 1 and 2 and she executed a registered gift settlement deed dated 17-01-1983 by retaining life interest in her favour and vested remainder rights were given to the plaintiffs 1 and 2 by virtue of the registered gift settlement deed dated 17-01-1983 and subsequently the mother of plaintiffs 1 and 2 died on 10-5-2005 and that the plaintiffs 1 and 2 are the absolute owners of the plaint schedule building G+2 and subsequently they sold the plaint schedule property to the respondents 7 to 10 in the present second appeal under registered sale deeds dated 30-10-2010 during the pendency of the suit. It is also the specific case of the sole defendant that the respondents 7 to 10 in the second appeal have been the owners of the plaint schedule building. In fact, registration extract of sale deeds are filed by the defendant before the trial Court and got them marked as Exs.B-3 to B-6 during the pendency of the suit proceedings.

17. It is the specific case of the appellant that Sesharatnam was the absolute owner of the plaint schedule property and the defendant has to pay rent regularly to the said Sesharatnam. It was further pleaded by the appellant that the said Sesharatnam obtained a registered lease deed dated 23-01-2003 for the purpose of obtaining bank loans. In fact, no evidence was produced by the appellant to show that a registered lease deed was obtained by Sesharatnam for the sake of loan obtained from the bank.

18. It was specifically pleaded by the appellant that he spent money of Rs.3,00,000/- in the year 2003 for constructing first floor over the plaint schedule shop and further in the year 2006 by spending money of Rs.3,50,000/- for constructing second floor over the first floor and that the

defendant was permitted by the said Sesharatnam not to pay any rent to her for a period of 12 years. In fact, there is no material on record to show that the appellant spent a money of Rs.3,00,000/- and Rs.3,50,000/- as stated supra and there is also no evidence on record to show that Sesharatnam agreed not to receive any rents from the appellant for a period of 12 years. It was specifically pleaded by the appellant that the defendant improved his business by investing Rs.25,00,000/- for which he took bank loans and borrowed amounts from his friends and relations. In fact, there is no evidence on record on behalf of the appellant to show that he borrowed Rs.25,00,000/- for improving his business.

19. It was pleaded by the appellant that the plaintiffs 1 and 2 refused to receive rent for the month of November and therefore, the appellant issued a notice dated 09-01-2009 requesting the plaintiffs 1 and 2 to receive the rent for the month of November and that the plaintiffs 1 and 2 issued a reply notice dated 12-01-2009 with false allegations. The plaint was presented on 23-12-2008. Thereafter, the defendant issued Ex.B-1 legal notice for which a reply notice was given by the plaintiffs 1 and 2 under Ex.B-2 that they have filed a suit for eviction of the appellant on 23-12-2008. Another plea taken by the appellant is that he is entitled to continue in the plaint schedule shop till 2015 as per the oral assurances that were given by Sesharatnam and plaintiffs 1 and 2. In fact, there is no evidence on record to show that the said alleged assurances were given by the mother of plaintiffs 1 and 2 or the plaintiffs 1 and 2.

20. It is undisputed fact by both sides that the defendant and Sesharatnam i.e. mother of plaintiffs 1 and 2, entered into a registered lease deed dated 23-01-2003 and the said lease deed was entered in between Sesharatnam and the defendant in respect of the plaint schedule property and Ex.A-1 property was leased out by the said Sesharatnam i.e., mother of plaintiffs 1 and 2 to the defendant and the said lease was expired by

30-10-2008. It is not in dispute that the mother of plaintiffs 1 and 2 executed a registered gift settlement deed in favour of the plaintiffs 1 and 2 on 17-01-1983 by retaining life interest in her favour and vested remainder rights were given to the plaintiffs 1 and 2 and she died on 10-5-2005 and that the plaintiffs 1 and 2 are the absolute owners of the plaint schedule property from 10-5-2005 onwards. The same is undisputed by the appellant. The material on record also goes to show that a quit notice was given by the plaintiffs 1 and 2 on 13-9-2008 under Ex.A-2 as per Section 106 of the Transfer of Property Act, 1882, by demanding the appellant to vacate the plaint schedule shop by 31-10-2008. A reply notice has been issued by the defendant under Ex.A-3 to Ex.A-2 legal notice and subsequently a rejoinder was issued by the plaintiffs 1 and 2 under Ex.A-4 dated 21-11-2008 to Ex.A-3 notice. The undisputed facts are that by the date of filing of the suit, the plaintiffs 1 and 2 are the owners of the plaint schedule property. The appellant admitted that he is a tenant in respect of the plaint schedule premises. Admittedly, no evidence was produced by the appellant to show that the mother of plaintiffs 1 and 2 permitted him to continue in the plaint schedule property for a period of 12 years without paying any rent.

21. A registered lease deed was executed in between the defendant and the mother of plaintiffs 1 and 2 on 23-01-2003 for a period of six years from 01-11-2002 to 31-10-2008 and there is no extension of lease and the appellant has to vacate the plaint schedule property and deliver the same to the mother of plaintiffs 1 and 2, failing which he has to pay an amount of Rs.500/- per day towards damages. The appellant as D.W.1 admitted in his evidence in cross-examination itself that apart from Ex.A-1 lease deed, there was no lease deed executed between him and Bondada Sesharatnam or between him and the sons of Sesharatnam extending the lease period. The appellant further admits that he did not make any claim and he has no proof to show that he invested Rs.25,00,000/- basing on the assurances given by Sesharatnam and her sons. He also further admits that he did not offer

rents to the purchasers of the suit schedule property. He further admits that there is no agreement in between him and the plaintiffs 1 and 2 to continue as a tenant to pay a rent of Rs.5,000/- after lease period also. A quit notice under Ex.A-2 is preceded prior to the filing of the suit to vacate the schedule property by 31-10-2008.

22. The learned counsel for appellant placed a reliance on *Ramlal v. Phagua*². The facts in the said case relate to the mortgage by conditional sale. Therefore, the facts and circumstances in that case are different to the instant case.

23. The learned counsel for appellant also placed a reliance on a judgment of the Kerala High Court in *Ittiyachan v. M.I. Tomy*³. The facts and circumstances in that case are different to the instant case.

24. The learned counsel for appellant placed another reliance on a judgment of the Apex Court in the case of *Gangabai v. Chhabubai*⁴. The facts in the aforesaid case relate to the relief of declaration of title in respect of immovable property sought by the plaintiff. In the case on hand, there is no title dispute in between the appellant and the plaintiffs 1 and 2.

25. The appellant is admitting the relationship of tenant and landlords by the date of filing of the suit. The contention of appellant is that during the pendency of the suit, the plaintiffs 1 and 2 alienated the plaint schedule property to the respondents 7 to 10 under registered sale deeds. In fact, the said registration extracts of the sale deeds are filed by the appellant himself during the pendency of the suit and got them marked as Exs.B-3 to B-6. But, either the appellant or the plaintiffs 1 and 2 did not take any steps to add the subsequent purchasers as parties to the suit. In the second appeal proceedings, the subsequent purchasers themselves approached this Court

² (2006) 1 SCC 168

³ 2001 SCC Online Ker 250

⁴ (1982) 1 SCC 4

and filed an application to add them as parties and that the plaintiffs 1 and 2 reported no counter in the said application and that application was allowed and the subsequent purchasers were added as respondents 7 to 10 in the second appeal itself. By the date of filing of the suit, the plaintiffs 1 and 2 are the owners of the plaint schedule property, the same is undisputed by the appellant. Section 52 of the Transfer of Property Act, 1882, protects the rights of subsequent purchasers. The rights of subsequent purchasers during the pendency of the case will not be changed and they can ultimately step into the shoes of original owner. The law is also well settled that a transferee *pendente lite* can be added as a proper party, if his interest in the subject matter of the suit is substantial and not just peripheral. As stated supra, during the pendency of the second appeal, the *pendente lite* purchasers filed an application to add them as parties to the second appeal vide I.A.No.1 of 2002, that application was allowed by this Court and the said application reached its finality. The material on record clearly reveals that there is no relationship of tenant and landlords in between the appellant and the plaintiffs 1 and 2 from 01-11-2008 onwards and the lease period was terminated by 31-10-2008. It is also undisputed fact that a quit notice was given by the plaintiffs 1 and 2 under Ex.A-2 by demanding the appellant to quit the plaint schedule shop by 31-10-2008, but the appellant failed to vacate the same and also failed to pay the rent. By giving cogent reasons both the Courts below gave concurrent findings.

26. Viewed thus, this Court finds that none of the questions raised are substantial questions and there is no subsistence in the questions raised and that therefore, the second appeal is devoid of merits and is liable for dismissal at the stage of admission. The law is well settled that a second appeal shall not be admitted if no substantial question of law arises for consideration and when no substantial question of law is involved. The view of this Court is reinforced by the ratio laid down by the Apex Court in the case of **Gurdev**

Kaur v. Kaki⁵. In the case on hand, as stated supra, this Court finds after careful examination of the pleadings, evidence and contentions that no substantial question of law is involved, this second appeal is liable for dismissal at the stage of admission, in view of narrow compass of Section 100 of Civil Procedure Code.

27. It is well settled that a tenant is always a tenant. He cannot acquire any title against a true owner. It is also the duty of the vendor that he has to protect the interest of subsequent purchasers. It is also well settled that a tenant cannot overturn the rights of the owner and a tenant cannot dictate terms to landlord or subsequent purchasers.

28. It is undisputed by both the parties that during the pendency of the suit, the plaintiffs 1 and 2 alienated the schedule property to the respondents 7 to 10 in the second appeal and the subsequent purchasers were also added as respondents 7 to 10 during the pendency of the second appeal. Therefore, the appellant is directed to deliver vacant possession of the plaint schedule property within three months to the respondents 7 to 10 in the second appeal, failing which the respondents 7 to 10 in the second appeal are entitled to take necessary steps as per law.

29. In the result, the second appeal is dismissed at the stage of admission, confirming the judgments and decrees of both the Courts below. Pending applications, if any, shall stand closed. Each party do bear their own costs in the second appeal.

⁵ AIR 2006 SC 1975

//TRUE COPY//

SD/- K.TATA RAO
DEPUTY REGISTRAR

SECTION OFFICER

To,

1. The Learned III Additional District Judge, Bhimavaram, West Godavari District. (with records if any)

2. The I Additional Junior Civil Judge, Bhimavaram, West Godavari District.
3. One CC to SRI. RAVITEJA PADIRI Advocate [OPUC]
4. One CC to SRI. HARINADH NIDAMANURI Advocate [OPUC]
5. One CC to SRI. PRAKASH BUDDARAPU Advocate [OPUC]
6. The Section Officer, VR Section, High Court of Andhra Pradesh at Amaravathi
7. THREE CD COPIES

Psr

TAC

HIGH COURT

DATED:22/04/2025

ORDER

SA.No.276 of 2019



DISMISSING THE SECOND APPEAL