(2025) 12 AP CK 0009

Andhra Pradesh HC

Case No: Second Appeal No: 194 Of 2024

M/s Indian Oil Corporation	APPELLANT
Vs	
Badam Sundara Rao And Others	RESPONDENT

Date of Decision: Dec. 10, 2025

Acts Referred:

- Code Of Civil Procedure, 1908 - Section 100

Hon'ble Judges: Venuthurumalli Gopala Krishna Rao, J

Bench: Single Bench

Advocate: Sai Sanjay Suraneni, Marri Venkata Ramana

Final Decision: Dismissed

Judgement

V. Gopala Krishna Rao, J

1. This second appeal is filed aggrieved against the Judgment and decree dated 01.12.2023 in A.S.No.66 of 2023 on the file of the III Additional District Judge, Kakinada, confirming the Judgment and decree dated 08.02.2023 in O.S.No.573 of 2018 on the file of the II Additional Senior Civil Judge Court, Kakinada.

2. The appellant herein is the defendant No.1, the respondent No.1 herein is the plaintiff and the respondent No.2 herein is the defendant No.2 in O.S.No.573 of 2018 on the file of the II Additional Senior Civil Judge Court, Kakinada.

3. The plaintiff initiated action in O.S.No.573 of 2018 on the file of the II Additional Senior Civil Judge, Kakinada, seeking eviction of the defendants from the suit schedule property, future damages for use and occupation of the schedule property and for costs.

4. The learned II Additional Senior Civil Judge, Kakinada, decreed the suit with costs. Felt aggrieved of the same, the unsuccessful defendants in the above said suit filed the aforesaid appeal before the first appellate Court. The learned III Additional District Judge, Kakinada, dismissed the first appeal by confirming the judgment and

decree passed by the trial Court. Aggrieved thereby, the unsuccessful defendant No.1/appellant approached this Court by way of second appeal.

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

6. The case of the plaintiff, in brief, as set out in the plaint averments in O.S.No.573 of 2018, is as follows:

The plaintiff is the owner of the plaint schedule property and he leased out the same to the defendant No.1-company under a registered lease deed dated 02.09.2002. As per the terms of the lease deed, the rent is Rs.30,000/-per month with an enhancement of 15% for every five years and the present rent being paid by the defendant No.1-company is Rs.39,675/-. The plaintiff pleaded that the defendant No.2 is the dealer of the defendant No.1-company, the period of lease is for fifteen years and it has come to an end by 02.09.2017 by efflux of time. The plaintiff further pleaded that the defendant No.1 wrote a letter dated 09.02.2018 to the defendant No.2, demanding him to vacate the schedule property and deliver the same to the plaintiff. Since the defendants have not vacated the schedule property, the plaintiff issued a notice to the defendants, terminating the tenancy by the end of April, 2018. The plaintiff pleaded that though the defendants received the said notice, they have failed to vacate the property. Hence, the present suit is filed.

7. The defendant No.1 filed written statement denying the contents of plaint averments and further contended as follows:

The plaintiff filed the suit by suppressing the material facts and misrepresenting the truth. The defendant No.1 pleaded that as per the lease agreement dated 02.09.2002, there is an express provision for renewing the lease period for a period of another fifteen years at the option of the lessee stating that if the lessee shall be desirous of renewing this present lease and or such desire shall have been given to the lessor not less than three months notice prior to the expiration hereof, and shall have duly observed and performed all the terms and conditions hereof, the lessor shall grant to the lessee a renewed lease of the said premises for a further period of fifteen years on mutual terms and conditions, by way of executing and registering a fresh lease deed. The defendant No.1 further pleaded that he has made correspondence with the plaintiff to renew the lease deed for a further period of fifteen years and they have filed a suit in O.S.No.396 of 2018, on the file of the II Additional Senior Civil Judge, Kakinada, seeking specific performance against the plaintiff and obtained Ad-interim injunction orders in I.A.No.412 of 2018 until disposal of the suit and prayed for dismissal of the suit with costs.

8. The defendant No.2 filed written statement denying the contents of plaint averments and further contended as follows:

The defendant No.2 was appointed as a dealer by the defendant No.1-company and he is the proprietor of the petrol bunk. The defendant No.2 pleaded that the defendant No.1-company informed him about the renewal clause in the lease deed dated 02.09.2002, and as per the said clause, the lease can be renewed for a further period of fifteen years on mutual terms and conditions. The defendant No.2 further pleaded that the plaintiff negotiated with the defendant No.1-company to renew the lease period for a period of another fifteen years, and while the negotiations were going on, the plaintiff filed the present suit with false allegations. He prayed for dismissal of the suit.

9. On the basis of above pleadings, the II Additional Senior Civil Judge, Kakinada, framed the following issues for trial:

1) Whether the lease between plaintiff and 1st defendant is expired by efflux of time, as pleaded by the plaintiff?

2) Whether lease between plaintiff and 1st defendant is renewed, as pleaded by defendants 1 and 2?

3) Whether plaintiff is entitled for decree of eviction of defendants and for future damages for use and occupation, as prayed for? and

4) To what relief?

10. During the course of trial in the trial Court, on behalf of the plaintiff, P.W.1 was examined and Ex.A-1 was marked. On behalf of the defendants, D.Ws.1 to 3 were examined and Exs.B-1 to B-5 were marked.

11. The learned II Additional Senior Civil Judge, Kakinada, 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 defendants filed the appeal suit in A.S.No.66 of 2023 before the III Additional District Judge, Kakinada, wherein, the following points came up for consideration.

1) Whether there are any irregularities either in appreciating the evidence or giving findings by the trial Court in its judgment in O.S.No.573 of 2018 dated 08.02.2023 and if so, interference of appellate Court is warranted? and

2) What relief?

12. The learned III Additional District Judge, Kakinada, i.e., the first appellate Judge, after hearing the arguments, answered the points, as above, against the defendants/ appellants and in favour of the plaintiff/respondent and dismissed the appeal filed by the defendants. Felt aggrieved of the same, the unsuccessful defendant No.1 in O.S.No.573 of 2018 filed the present second appeal before this Court.

13. Heard Ms. A.Priyanka, learned counsel appearing on behalf of Sri Sai Sanjay Suraneni, learned counsel for the appellant/ plaintiff and Sri Marri Venkata Ramana, learned counsel for the respondent/defendant.

14. 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 the 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 a case of **Boodireddy Chandraiah v. Arigela Laxmi** (2007) 8 SCC 155, 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 namely, 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.

15. The defendant No.1 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.

16. 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 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.

17. The plaintiff filed the suit seeking relief of eviction of the defendants from out of the suit schedule property. The undisputed facts are that the plaintiff executed a registered lease deed dated 02.09.2002, in respect of the suit schedule property for a period of fifteen years in favour of M/s. IBP Company Limited, which was amalgamated as Indian Oil Corporation. It is also an undisputed fact that the plaintiff received an amount of Rs.20,00,000/-towards an advance on 04.02.2009 from Vamsi Krishna Filling Station and he has to return the said amount at the end of the lease agreement from the schedule property and also the eviction of the defendants from out of the suit schedule property. The terms of Ex.A-1 lease deed is

also undisputed by both the parties.

18. The recitals in Clause No.4 of Ex.A-1 lease deed are as follows:-

If the lessee shall be desirous of renewing this present lease and or such desire shall have given to the lessors not less than three months notice prior to the expiration hereof and shall have duly observed and performed all the terms and conditions herein the lessor shall grant to the lessee a renewed lease of the said premises for further period of Fifteen Years on mutual terms and conditions, by way of exciting and Tregenting a fresh lease deed.

19. According to the certified copy of Ex.A-1 lease deed, the lease period will be ended on 01.09.2017. A lessee shall express its desire to continue in the premises not less than three (03) months prior notice to the expiration thereof and the lessor shall renew the lease of the said premises for a further period of fifteen years on **mutual terms and conditions** by executing a fresh lease deed. Therefore, it is quite evident that as per the Clause No.4 of Ex.A-1 lease deed, a lessee has to issue three (03) months prior notice to the lessor to express its desire to continue in the premises before the expiry of the lease, which is one of the mandatory requirements. Another mandatory requirement is that upon expression of its desire by the lessee for a further period of fifteen years on mutual terms and conditions, a lease deed has to be executed for a further period of fifteen years. The appellant pleaded that they have addressed a letter to the landlord three (03) months prior to 01.09.2017, to express its desire to continue in the premises for a further period of fifteen years, but they failed to produce the said letter either before the trial Court or before the First Appellate Court. Learned counsel for the appellant would contend that the landlord himself addressed a letter dated 15.05.2017 to the appellant as a reply to the letter sent by the Indian Oil Corporation Limited. As stated **supra**, to prove the said recitals in the alleged letter addressed to the landlord by the appellant, no **prima facie** proof or evidence was produced by the appellant.

20. As seen from the material available on record, the plaintiff herein is the owner of the suit schedule property, Ex.A-1 lease deed is undisputed by both the parties and it is also undisputed by both the parties about the terms and conditions incorporated in the lease deed. Admittedly, there is no evidence on record to show that a lessee has given three (03) months prior notice to the lessor to express its desire to continue as a lessee for a further period of fifteen years. There is no evidence on record to show that the plaintiff complied with the condition incorporated in Clause No.4 of the registered lease deed, and there is no mutual understanding in between both the parties for extension of lease, which is one of the mandatory requirements under Clause No.4 of Ex.A-1. Even as per the own admissions of the appellant, the appellant did not accept the demand of payment of the rent of Rs.2,00,000/-per month as demanded by the owner under Ex.B-2. Furthermore, there is material on record to show that the appellant herein addressed a letter to the dealer to vacate the suit schedule premises. There is no

mutual understanding in between both the parties to renew the lease for a further period of fifteen (15) years. Therefore, in view of the aforesaid reasons, under the guise of Clause No.4 of the lease deed, the appellant is not entitled to continue as a tenant since the extension of lease is not an automatic renewal.

21. The appellant herein filed a suit for specific performance of the lease deed dated 02.09.2002 vide O.S.No.396 of 2012, to renew the lease period for further fifteen years by executing a fresh lease deed and the said suit was dismissed by the trial Court, which was confirmed by the First Appellate Court. The lease in between both the parties will be expired by 01.09.2017 and there is no further lease deed from 02.09.2017, in between the plaintiff and the defendant, and as on today the appellant is continuing in the possession of the suit schedule property as if a tenant. Therefore, the appellant is liable to be evicted from the suit schedule property.

22. Having regard to the reasons assigned, this Court is satisfied that the concurrent findings of fact recorded by both the Courts below on all the issues/points in favour of the plaintiff and against the defendants do not brook interference and that both the Courts below are justified in decreeing the suit of the plaintiff. The findings of fact recorded by both the Courts below were based on proper appreciation of evidence and the material on record and there was neither illegality nor irregularity in those findings and therefore, the findings do not require to be upset. Further, the existence of a substantial question of law is a sine qua non for the exercise of jurisdiction by this Court as per Section 100 of Code of Civil Procedure. The questions raised, strictly speaking, are not even pure questions of law, let alone substantial questions of law.

23. 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. Kaki** AIR 2006 SC 1975. 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.

24. In the result, the second appeal is dismissed at the stage of admission, confirming the judgment and decree of both the Courts below by granting six (06) months time to the appellant to vacate the plaint schedule premises. Pending applications, if any, shall stand closed. Considering the facts and circumstances of the case, there shall be no order as to costs.