

**THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA
RAO**

CIVIL REVISION PETITION No.4944 of 2014

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ORDER:
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This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.16-10-2014 in I.A.No.1059 of 2014 in O.S.No.1339 of 2014 of the Principal Senior Civil Judge, Ranga Reddy District.

2. The petitioner herein is defendant in the suit. The respondent/plaintiff filed the suit against him for eviction of petitioner from the subject property, to pay arrears of rents and past mesne profits and also future mesne profits.

3. Pending suit, respondent filed I.A.No.1059 of 2014 under Order XV-A CPC to direct the petitioner to pay the arrears of rent for a period of 36 months @ Rs.4000/- p.m. from 08-07-2011 to 08-07-2014 and continue to deposit the rent till disposal of the main suit.

4. In the affidavit filed in support of the said application, she contended that petitioner is her tenant on a monthly rent of Rs.4000/-; that petitioner had failed to pay the rent since the date of his induction into possession of property; that he refused to vacate when he was asked to do so; he

also filed O.S.No.473 of 2010 before the

III Additional Junior Civil Judge, Ranga Reddy District against the respondent for perpetual injunction; the said suit was decreed exparte on account collusion between the respondent and the petitioner's Advocate; and therefore, the present suit had to be filed for petitioner's eviction. She claimed that respondent is due sum of Rs.2,96,000/- to her from 08-05-2008 to 08-07-2014 @ Rs.4000/- p.m.; that she has claimed only three years rent from 08-07-2011 to 08-07-2014 on account of limitation; and therefore, it was a fit case for the exercise power under Order 15A CPC to direct the petitioner to pay arrears of rent for that period and continue to pay or deposit the same till disposal of the suit.

5. Counter affidavit was filed by petitioner opposing the said application and denying the averments made by respondent. He claimed that he filed the suit O.S.No.500 of 2013 before the Principal Senior Civil Judge, Ranga Reddy District at L.B.Nagar for recovery of a sum of Rs.7,57,040/- against respondent, which the respondent had taken from him under a hand loan, that respondent has the habit of deceiving persons and certain instances in that regard were also mentioned. It is further contended that petitioner had also entered into an agreement of sale

dt.23-07-2014 with respondent for sale of the subject property and therefore he need not pay any rents.

6. By order dt.16-10-2014, the Court below allowed the said application. It held that no document was filed in support of the plea of petitioner that there was an agreement of sale under which he had purchased the property; no receipt was filed for payment of consideration of Rs.5,64,000/- to respondent; and in O.S.No.473 of 2010 filed by petitioner it was admitted in the pleadings that petitioner was inducted as tenant on a monthly rent of Rs.4,000/- under rental deed dt.08-05-2008; this amounts to admission of landlord and tenant relationship by petitioner and therefore he is liable to deposit the arrears of rent @ Rs.4000/- p.m. from 08-07-2011 to 08-07-2014 and continue to deposit the same till disposal of the main suit.

7. Challenging the same, this Revision is filed.

8. The learned counsel for petitioner contended that the order of the Court below is erroneous and unsustainable; that petitioner's suit O.S.No.500 of 2013 for recovery of Rs.7,57,040/- is pending with the same Court; that the agreement of sale dt.23-07-2014 was executed in his favour by respondent; O.S.No.1334 of 2014 is filed for specific performance of the said agreement and even the

said suit is pending; and therefore, the Court below was not right in allowing the I.A.

9. It is not disputed by the learned counsel for petitioner that O.S.No.473 of 2010 was filed by petitioner against respondent seeking perpetual injunction restraining the respondent from interfering with his possession and enjoyment of the subject property. He had specifically pleaded in the plaint therein that he was a tenant of respondent under a rental deed dt.08-05-2008. Therefore, there is admittedly landlord and tenant relationship between petitioner and respondent.

10. It is no doubt true that petitioner had filed a suit O.S.No.500 of 2013 for recovery of Rs.7,57,040/- against respondent. But whether such an amount is due from respondent or not is a matter to be considered in that suit and it cannot be presumed that respondent is liable to pay the said amount to petitioner.

11. Even with regard to the plea as to the execution of the agreement of sale dt.23-07-2014 allegedly executed by respondent in favour of petitioner, admittedly O.S.No.1334 of 2014 is pending before

V Additional District Judge, Ranga Reddy District where the said Court can go into the issue whether such agreement has been executed and whether the petitioner

is entitled to relief of specific performance of the same. Therefore, on the ground that O.S.No.500 of 2013 is pending or on the ground that O.S.No.1334 of 2014 is pending, the petitioner cannot avoid an order under Order 15A CPC since he admitted in O.S.No.473 of 2010 about the relationship between himself and respondent as that of tenant and landlord. In any event, the petitioner has only been directed by the Court below to deposit the arrears of rent as well as future rents to the credit of the suit. Therefore, any such deposit by petitioner would be subject to the result of the suit. If the petitioner is able to establish that respondent is due the sum of Rs.7,57,040/- in O.S.No.500 of 2013 or that respondent had executed an agreement of sale dt.23-07-2014 in his favour in O.S.No.1334 of 2014, appropriate orders can be passed at the time of the disposal of the present suit.

12. In this view of the matter, I do not find any merit in the Revision and it is accordingly dismissed. No costs.

13. As a sequel, miscellaneous petitions pending, if any, shall stand disposed of.

JUSTICE M.S. RAMACHANDRA RAO

Date: 12-06-2015

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