

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION No.2255 of 2015

ORDER:

The plaintiff in O.S. No.62/2013 on the file of the Court of the learned III Additional District Judge, East Godavari at Kakinada, is the petitioner herein. The petitioner is the landlord and the respondents are tenants. The said suit was filed by the petitioner for eviction of the respondents and for recovery of the arrears of rent. In the said suit, the petitioner filed I.A.No.580/2014 seeking a direction to the respondents to deposit the arrears of rent of Rs.15,22,520/- and also to deposit the rents from February 2013 till date. The said application was ordered on 31.07.2014 with the following directions:

- “(i) The respondents shall deposit rent arrears at Rs.15,22,800/- for period from part of June, 2012 to February, 2013 on or before 23.08.2014.

From out of amount deposited the petitioner is entitled to receive 75% and balance of amount can be kept in Fixed deposit in any nationalized bank.

- (ii) Further, the respondents shall continue to deposit the rents from March, 2013 on or before 5th of every succeeding month.
- (iii) The entitlement of parties for the amount that is kept in Fixed deposit shall be subject matter of the suit.”

Thereafter the petitioner filed another application in I.A.No.3069/2014 in the said I.A. No.580/2014 for modifying the order dated 31.07.2014, and the said application was partly allowed on 22.01.2015. Challenging the order refusing to modify the earlier order, the present Civil Revision Petition was filed.

I have perused the original order in I.A. No.580/2014 dated 31.07.2014 and the present order in I.A. No.3069/2014 dated 22.01.2015, and no tenable reason is shown for restricting the

withdrawal of amount deposited to the extent of 75%. The only reason shown was that the trial has to be held with regard to the rival contentions in the main suit. There appears to have been no dispute with regard to the agreed rent and the amount of Rs.15,22,800/- was stated to be for the period from June 2012 to February 2013. The respondents were directed to deposit the rents from March 2013 onwards.

In the absence of any reason restricting the withdrawal of amount to 75% of the amount deposited, this Court feels it just and necessary to allow the application in I.A. No.3069/2014, and the petitioner is permitted to withdraw the entire amount of Rs.15,22,800/- and the amount already withdrawn shall be given credit. The impugned order dated 22.01.2015 is accordingly set aside, and I.A. No.3069/2014 is allowed modifying the order dated 31.07.2014, restricting the withdrawal of amount to 75%.

Accordingly, this Civil Revision Petition is allowed. No order as to costs.

Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

A.RAMALINGESWARA RAO, J

17.12.2015

MVA