

THE HON'BLE SRI JUSTICE R. SUBHASH REDDY

CIVIL REVISION PETITION No.1640 OF 2015

ORDER:

This Civil Revision Petition is filed aggrieved by the order, dated 19.03.2015, in I.A.No.485 of 2014 in O.S.No.1410 of 2014 passed by the II Senior Civil Judge, City Civil Court, Hyderabad.

The respondents herein, who are the landlords, have filed the aforesaid suit against the revision petitioner, who is the tenant, for the following reliefs:

- “(a) for eviction of the defendant from the suit schedule flat bearing No.201, GHMC No.6-3-609/140 at 2nd floor consisting of two rooms, hall, W/C, kitchen and balcony admeasuring 1024 sft of plinth area with an undivided share of land admeasuring 35.41 sq.yds of land situated at Anand Nagar Colony, near SBH, Khairatabad and to put the plaintiffs in possession of the suit flat;
- (b) for an amount of Rs.1,03,500/- towards arrears of rent
- (c) to award costs and damages; and
- (d) to grant mean profit and such other relief or relieves as the Hon'ble Court may deem fit and proper in the circumstances of the case and in the interest of justice.”

During pendency of the suit, alleging that the revision petitioner is due to pay the rents from January to September, 2014, the respondents/plaintiffs filed the aforesaid I.A., seeking a direction to the revision petitioner

either to deposit the arrears of rent amounting to Rs.1,03,500/-, for the period from January to September, 2014, in the Court or to pay the same to the respondents and also to direct the revision petitioner to deposit every month's rent in advance into the court or in the bank account of the respondents till disposal of the suit. By the impugned order, the trial Court allowed the I.A., directing the defendant to pay or deposit arrears of rent from January, 2014 to August, 2014 at Rs.11,000/- p.m., amounting to Rs.88,000/- within 15 days from the date of order and shall continue to pay or deposit the same quantum of rent until further orders. Hence, this revision.

Heard learned counsel for the revision petitioner and learned counsel for the respondents.

It is not in dispute that the rent payable by the revision petitioner is Rs.11,000/- per month. In spite of the specific allegations of the respondents that the revision petitioner is liable to pay an amount of Rs.1,03,500/- towards arrears of rent for the aforesaid period, except the money order receipt dated 16.10.2014 for Rs.11,000/- for the month of September, 2014, no other evidence is filed by the revision petitioner to disprove the said allegations of the respondents. The only submission made by learned counsel for the revision petitioner is that the respondents are not in the practice of issuing receipts acknowledging the receipt of rent. If such was the conduct of the

landlords, the revision petitioner ought to have sent the rent by way of money order, as was sent for the month of September, 2014.

Though learned counsel for the revision petitioner placed reliance upon the judgment of this Court in **K.Zakria Shaik v. K.Saleem Bash**^[1], in view of the provision under Order XVA of CPC, it is clear that even though the relief of recovery of arrears of rent is sought in a suit, a direction can certainly be issued for deposit thereof in an application filed under Order XVA of C.P.C., only when there is no dispute as to the quantum and there existed arrears from the date of filing of the suit. In the case on hand, as it is not in dispute that the quantum of rent is Rs.11,000/- per month and the revision petitioner has failed to produce proof of paying rent for the aforesaid period, I do not find any illegality in the impugned order warranting interference of this Court in exercise of power under Article 227 of the Constitution of India.

The Civil Revision Petition is accordingly dismissed. However, the revision petitioner is granted 15 days' time to deposit or pay the rent as ordered by the trial Court. No order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE R.SUBHASH

REDDY

19th June, 2015

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THE HON'BLE SRI JUSTICE R. SUBHASH REDDY

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CIVIL REVISION PETITION No.5124 OF 2012

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24th January, 2014

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