

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

CIVIL REVISION PETITION No.2913 of 2015

ORDER:

The order, under challenge in this Civil Revision Petition, is the order passed by the Court below in I.A. No.1245 of 2014 in O.S. No.64 of 2010 dated 02.04.2015, recording the fact that the respondent did not file a counter; and he should deposit the admitted rent on or before 08.04.2015.

A counter-affidavit was filed by the petitioner herein, thereafter, on 22.04.2015. The submission of Sri M. Radhakrishna, Learned Counsel for the petitioner, placing reliance on the judgment of this Court in **Sri Vasavi Boys Hotel and Mess, Hyderabad v. K. Satya Prasad**^[1], is that the Court below could not have directed the petitioner to deposit arrears of rent under Order XV-A CPC, without assigning reasons therefor. In **Sri Vasavi Boys Hostel and Mess**¹, this Court observed:

“.....Thus, according to the A.P. Amendment, the Court has jurisdiction to direct deposit of admitted arrears and in case there is a dispute with regard thereto, it shall hold an enquiry into the same and pass an order as to whether arrears exist and if so, the quantum thereof. No such exercise has been undertaken by the lower Court. Under Point No.2, the lower Court has merely directed deposit "all the arrears of rent" by 20.8.2011 without specifying the exact alleged arrears of rent. Such an approach on the part of the learned Judge cannot be appreciated.....”

It is evident, therefore, that the Court below could not, without any enquiry, have directed the petitioner herein to deposit the disputed rent. When the matter came up last week, Sri S. Subba Reddy, Learned Counsel for the respondent, drew my attention to the specific assertion in the counter-affidavit that the petitioner did not pay the monthly rent of Rs.5,350/- from October, 2008 onwards. I therefore asked Sri M. Radhakrishna, Learned Counsel for the petitioner, to ascertain the extent of arrears of rent which the petitioner was liable to pay to the respondent.

Today Sri M. Radhakrishna, Learned Counsel for the petitioner, would submit that, while the petitioner had paid certain amounts after October, 2008, certain amounts towards rent are yet to be paid. Learned Counsel would, however, contend that in terms of the aforesaid judgment and as the petitioner has a claim against the respondent which is being agitated by way of a separate suit, the Court below could not have directed

deposit of the disputed arrears of rent without any enquiry in this regard. The fact that the petitioner was paying monthly rent of Rs.5,350/- to the respondent is not in dispute. The question whether the petitioner is entitled for damages, for the loss allegedly suffered by him, would be a subject matter of enquiry in the suit filed by him.

Ends of justice would be met, if the order under revision is set aside, the Court below is directed to conduct an enquiry and determine the arrears of rent payable by the petitioner. To the limited extent that he admits to be in arrears of rent, the petitioner shall deposit the said amount to the credit of the suit within four weeks from today. The said amount shall lie in deposit with the Court below till orders are passed afresh in I.A. No.1245 of 2014 in accordance with law. The Civil Revision Petition is disposed of accordingly. The miscellaneous petitions pending, if any, shall also stand disposed of. No costs.

(RAMESH RANGANATHAN, J)

Date: 18.09.2015

MRKR