

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

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CIVIL REVISION PETITION No. 3065 of 2015

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ORDER:

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This Revision petition is filed challenging the order
dt. 29.06.2015 in I.A.No.1281 of 2014 in
R.C.C.No.6 of 2010 of the Principal Junior Civil Judge,
Warangal.

2. The petitioner is the tenant of the respondent. The
said R.C.C. was filed for eviction of the petitioner. The
petitioner claimed that there was an agreement of sale
dated 08.06.2009 under which R.C.C. schedule property
was agreed to be sold to him by the respondent.

3. He filed a suit in O.S.No.78 of 2009 for specific
performance of contract which was dismissed on
21.02.2014. Challenging the same, the petitioner filed an
appeal in this Court which was numbered as A.S.No.244
of 2014.

4. The petitioner filed I.A. No. 1281 of 2014 to stay
proceedings in R.C.C. pending disposal of appeal in
A.S.No.244 of 2014. He contended that the R.C.C. should
be stayed till the disposal of the appeal and that, if stay of
proceedings in R.C.C. is not granted, prejudice would be
caused to him.

5. Counter affidavit was filed by the respondent opposing grant of stay of proceedings in R.C.C. Respondent contended that, only with a dishonest intention to drag on the proceedings, I.A.No.1281 of 2014 has been filed seeking stay of R.C.C. pending disposal of the appeal; there would not be any conflicting decisions in the appeal and R.C.C. and, even if the appeal is allowed, the petitioner cannot seek stay of R.C.C. It was also contended that the subject matter in the present R.C.C., and the dispute in A.S.No.244 of 2014 are different. It was also contended that, during cross-examination of PW.1 in O.S.No.78 of 2009 before the Principal District Court, the petitioner had clearly deposed that he was in possession of the petition schedule property in the capacity of tenant but not in the capacity of the purchaser and, as such, the I.A. is not maintainable.

6. By order dated 29.06.2015, the Court below dismissed the said application observing that proceedings before the Rent Controller are summary in nature and, merely because an appeal, arising out of suit for specific performance, is pending before this Court, the proceedings in R.C.C. cannot be stayed. The Court below also observed that, if the eviction petition is allowed, the petitioner will be evicted from the petition schedule property but in case the appeal in A.S.No.244 of 2014 is allowed, the petitioner can always file an execution

petition for execution of sale deed and recovery of possession as an owner and, so, no prejudice would be caused to him.

7. Questioning the same, this Revision is filed.

8. Learned counsel for the petitioner contended that the observations of the Court below would come in the way of the petitioner seeking stay of eviction before an appropriate forum by way of appropriate application and, therefore, the said observations need to be deleted from the order of the Court below.

9. Learned counsel for the respondent contended that, whatever observations are made in the impugned order, they do not cause any prejudice to the petitioner; they only indicate the logical consequence of not granting stay in R.C.C.; and it was explained that no prejudice would be caused to the petitioner even if stay of proceedings in R.C.C. was not granted.

10. I have noted the submissions of both sides. It is no doubt true that a suit for specific performance filed by the petitioner against the respondent was dismissed. A.S.No.244 of 2014 filed against it is pending before this Court. Merely because the said appeal is pending, the proceedings in R.C.C. need not be stayed. However, it is clarified that the observations made in the order of the

Court below do not come in the way of the petitioner seeking appropriate relief in appropriate proceedings before appropriate forum with regard to retention of possession.

11. With this clarification, the Revision petition is dismissed. There shall be no order as to costs.

12. Consequently, miscellaneous petitions pending, if any, shall also stand dismissed.

M.S.RAMACHANDRA RAO,J

Date:26.08.2015
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