

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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C.R.P.NO.1168 OF 2015

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ORDER

Heard both the counsel.

The revision petitioner is defendant in the suit in O.S.No.68/2012 filed by the respondent/plaintiff seeking his eviction. The petitioner filed I.A.No.294/2014 in O.S.No.68/2012 under Order XV Rule 3 read with Section 151 C.P.C. to decide the issue of jurisdiction as a preliminary issue, averring that the rent of the schedule shop is Rs.3,200/- and that it is constructed nearly about 39 years back and hence, the civil court has no jurisdiction to entertain the suit and the plaintiff has the invoke the jurisdiction under the A. P. Rent Control Act. By order and decree dated 19.2.2015, the trial court dismissed the petition. Aggrieved by the same the present revision is filed.

From the material on record it could be seen that the respondent/plaintiff before filing the suit issued legal notice stating that the rent of the suit schedule premises is Rs.5,000/- and in the earlier suit instituted by the present revision petitioner against the respondent/plaintiff in O.S.No.253/2012 on the file of II Additional Junior Civil Judge, Visakhapatnam for injunction and not to evict him except in accordance with law, I.A.No.249/2013 in O.S.No.253/2012 came to be filed for fixation of rent and the trial court tentatively fixed the rent at Rs.3,200/- and gave liberty to the present respondent to take steps for fixation of fair rent. Therefore, the contention of the petitioner that the rent is Rs.3,200/- is not borne out from record or

accepted by the respondent. Further, as already noted above, the respondent in the legal notice, claimed the monthly rent at Rs.5,000/- per month and hence, as observed by the trial court, the same is to be decided after trial. Further, the petitioner herein has earlier filed I.A.No.122/2013 in the present suit with the very same averments to return / reject the plaint on the point of jurisdiction and the same was dismissed. While dismissing the present petition, the trial court noted that the respondent/plaintiff is aged about 84 years and also earlier the present defendant/petitioner filed a suit in respect of the very same schedule premises not to evict him except in due process of law and the same was decreed and now the present suit is filed for eviction. Hence, in view of these facts and circumstances, the trial court rightly observed that the petitioner is prolonging the proceedings.

In view of the above facts and circumstances, I do not find any merit in the revision and the same is dismissed. No costs.

AVS -----

24—04—2015