

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

CIVIL REVISION PETITION No.2093 of 2014

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ORDER:
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This Civil Revision Petition is filed challenging the order
dt.27-06-2014 in I.A.No.173 of 2014 in I.A.No.266 of 2013
in R.C.C.No.1 of 2013 of the Junior Civil Judge,
Jangareddigudem.

2. The petitioner claims to be the tenant of respondent. He filed the said R.C.C. against respondent for an injunction restraining the respondent from interfering with his alleged peaceful possession and enjoyment of the amenities attached to the R.C. schedule premises until he is evicted through process of law and for costs.

3. Pending R.C.C., he filed I.A.No.266 of 2013 under Section 14(3) of the A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960 (for short "the Act") to pass orders temporary in nature restraining the respondent, his men and agents from ever interfering with his peaceful possession and enjoyment of the R.C. schedule property for carrying on his business in the name and style of "Kumar Cell Point" in the R.C. schedule premises and also

to restrain him from cutting off the amenities attached to the property like electricity supply etc.

4. A counter affidavit appears to have been filed to I.A.No.266 of 2013 stating that the relief sought for therein is outside the scope of R.C.C. and the provisions of the Act.

5. The petitioner therefore filed I.A.No.173 of 2014 under Order

VI Rule 17 C.P.C. to amend the prayer in I.A.No.266 of 2013 by deleting the words “from ever interfering with my peaceful possession and enjoyment of schedule property for carrying my business in the schedule premises and further restrain him”.

6. The Court below dismissed the said application stating that this I.A. had been filed when I.A.No.266 of 2013 had been posted for enquiry and that there is an admission made by petitioner, which cannot be withdrawn, by seeking amendment.

7. Challenging the same, this Revision is filed.

8. While there is no quarrel with regard to the proposition that admission made by a party cannot be allowed to be withdrawn by way of seeking amendment, I am of the opinion that the Court below misapplied the said

proposition. When the petitioner, who is also petitioner in the R.C.C. No.1 of 2013, wished to withdraw a portion of prayer in I.A.No.266 of 2013 on the ground that the other side had contended that such a relief cannot be granted by the Rent Controller under the said Act, it cannot dismiss the said I.A. seeking amendment because it is settled law that a plaintiff/petitioner, under Order XXXIII Rule 1(1) C.P.C., can abandon part of his claim also. Therefore the impugned order cannot be sustained and it is accordingly set aside.

9. The Civil Revision Petition is allowed and the order dt.27-06-2014 in I.A.No.173 of 2014 in I.A.No.266 of 2013 in R.C.C.No.1 of 2013 of the Junior Civil Judge, Jangareddigudem is set aside and the said I.A. is allowed. No costs.

10. Since the R.C.C. is of the year 2013, the Court below shall endeavour to expeditiously dispose of the same in accordance with law within a period of four (04) months from the date of receipt of a copy of this order.

11. As a sequel, miscellaneous petitions pending if any, shall stand disposed of.

JUSTICE M.S. RAMACHANDRA RAO

Date: 27-08-2015

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