

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.2836 of 2014

ORDER:

Petitioner herein is the plaintiff and respondent herein is the defendant in O.S.No.46 of 2013 pending on the file of the Court of I Additional Chief Judge, City Civil Court at Secunderabad (for short, trial Court). Admittedly, the petitioner was a tenant of the respondent. For the sake of convenience, the parties are referred to as they are arrayed in the trial Court.

2. The petitioner was inducted in possession of 8000 sft., in the first and second floors of TMR Complex, bearing MCH No.12-8-452 and 453, situated at Modi's Compound, Mettuguda, Secunderabad for a monthly rent of Rs.4,40,000/- with a condition for escalation of 5% of the rent every succeeding year during the entire lease period of 5 years which had a lock-in period of 3 years with a security deposit of Rs.52,80,000/-. The lease was entered on 18.07.2009. While so, the plaintiff informed the defendant in writing on 25.01.2012 that they would terminate the lease in compliance with the terms and conditions of the lease deed and vacate the premises in the month of July, 2012. Accordingly, the plaintiff vacated the premises and sought return of the security deposit of Rs.52,80,000/-. Though the plaintiff vacated the premises, when the defendant did not return the security deposit amount, O.S.No.46 of 2013 was filed. In the said suit, the plaintiff filed I.A.No.612 of 2013 seeking appointment of an Advocate Commissioner to note down the alterations and constructions made by the defendant in the petition schedule premises. The trial Court dismissed the said application, by its order dated 28.03.2014, challenging which, the present Civil Revision Petition is filed.

3. It is undisputed that the lease was for a period of 5 years commencing from 18.07.2009, and in the said period of 5 years, 3 years would be locked. Clause 10 of the lease agreement says that the lessee shall not carry out any

alteration or additions in the scheduled premises without consent of the lessor. Clause 12 deals with termination of the lease and Clause 19 deals with return of possession and they read as follows:

“12. Termination: The Lessee shall not commit any default in payment of rent to the Lessor. Default in payment of rent for a Consecutive Period of 3 months will entitle the Lessor to determine the tenancy and evict the Lessee. The Lessee if intends to terminate the Lease shall give six months prior notice in writing to the Lessor for its vacating the premises after three year lock-in period. Upon termination, the Lessee shall handover peaceful vacant possession of the said premises on return of Security Deposit and all other outstanding amounts/deposits paid/deposited by the Lessee on behalf of Lessor and all other dues hereunder if any that may be payable by the Lessor to the Lessee.

19. Return of Possession: On termination of the lease either by efflux of time or otherwise, the Lessee shall deliver the vacant possession of the said premises to the Lessor in the same condition in which it was let out except for changes caused by natural wear & tear and irresistible forces. The Lessor shall issue clearance receipt to the Lessee at the time of taking over the vacant possession of the said premises.”

4. The trial Court dismissed the application with the following observations:

“7. In view of the undisputed facts, even from the case of the petitioner that he has already vacated the premises and his claim is only for recovery of refundable security deposit. There is no relevancy for the present alterations and constructions being made by the respondent as landlord of the premises after the petitioner vacated the same to decide the real issues in controversy in the suit. Therefore, the petitioner has not made out any substantial grounds for appointment of Advocate Commissioner to note down the alterations and constructions made in the schedule premises.”

5. As the petitioner had vacated the premises and the suit is filed for return of the security deposit allegedly made by the petitioner at the time of entering into the lease agreement, the order passed by the trial Court, in the facts and circumstances, is proper and it does not warrant any interference.

6. At this stage, the learned counsel for the petitioner desired that the suit itself can be disposed of at an earlier date, as the suit is of the year 2012 and it was

instituted for refund of the security deposit. Since the suit is of the year 2012, the trial Court shall endeavour to dispose of the suit as expeditiously as possible, but not later than six months from the date of receipt of a copy of this order.

7. The Civil Revision Petition is, accordingly, dismissed. No order as to costs. Miscellaneous Petitions, if any pending, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 16.11.2015

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