

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition No.3018 of 2015

Date: 29-12-2015

Between:

Narender Kumar Sharma

.... Petitioner

AND

G. Satyanarayana

.... Respondent

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition No.3018 of 2015

ORDER:

-
The petitioner is a tenant. The respondent herein filed R.C.No.305 of 2014 on the file of IV Additional Rent Controller at Hyderabad, seeking eviction of the petitioner herein on the ground that the tenant ceases to occupy the premises. The notices in the case were sent to the premises of the petitioner and since the petitioner was not opening the premises, it could not have been served on him. However, the notice appears to have been affixed on the business premises and as there was no response, he was set

ex parte on 02-02-2015. An *ex parte* order was passed in R.C.No.305 of 2014 on 23-04-2015 giving two months time for eviction. Thereafter, the petitioner herein filed I.A.No.58 of 2015 in R.C.No.305 of 2014 seeking condonation of delay of 25 days in filing the petition to set aside the *ex parte* order along with the petition to set aside the *ex parte* order. The petition to set aside the

ex parte order dated

02-02-2015 is pending and in the petition seeking condonation of delay in I.A.No.58 of 2014, the learned Rent Controller passed an order dismissing the said application. Challenging the same, the present Civil Revision Petition is filed.

The facts of the case disclosed that the tenant has not been in occupation of the non-residential premises, which he took on lease for a long time. However, he filed R.C.No.222 of 2014 on 20-04-2015 for depositing rents in respect of premises bearing No.15-2-592/2 and 555 and the evidence is being let in in the said case. Thus, it is not as if the petitioner is not available for service though the schedule premises is not being opened for running the business. The learned Rent Controller, without giving a categorically finding with regard to service of summons, but by going into the merits of the case, dismissed the application by the order dated 16-07-2015. In order to dispose of the application in I.A.No.58 of 2015, the learned Rent Controller should have given a finding with regard to the service of summons in the case. In the absence of the same, this Court should have normally remanded the matter to the learned Rent Controller, but in order to avoid further delay in the matter, I am inclined to allow the application in I.A.No.58 of 2015 on payment of costs of Rs.1,000/- (Rupees one thousand only) payable to the respondent herein within a period of two (2) weeks from the date of receipt of a copy of the order.

The order dated 16-07-2015 passed in I.A.No.58 of 2015 in R.C.No.305 of 2014 is set aside and I.A.No.58 of 2015 is allowed subject to the payment of costs ordered above.

At this stage, the learned counsel for both parties fairly

agreed for disposal of the main R.C.No.305 of 2014, but the application for setting aside the ex parte order dated 02-02-2015 is pending consideration before the learned Rent Controller. In view of the same, in order to dispose of the main case, with the consent of the parties, the petition seeking to set aside the ex parte order dated 02-02-2015 is also allowed. The learned Rent Controller shall dispose of R.C.No.305 of 2014 as expeditiously as possible, but not later than 30-04-2016 by giving due opportunity to both parties. Since the parties herein are represented by their counsel, they are requested to cooperate for disposal of R.C.No.305 of 2014.

The Civil Revision Petition is allowed accordingly. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 29-12-2015

Ksn