

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

CIVIL REVISION PETITION No.4187 of 2013

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ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.12-09-2013 in I.A.No.3171 of 2009 in O.S.No.147 of 2008 of the I Additional Chief Judge, City Civil Court, Secunderabad.

2. The petitioner herein is plaintiff in the suit. He filed the suit for declaration of title, recovery of possession, injunction and mesne profits in respect of the plaint schedule properties against respondents and for other reliefs.

3. He filed I.A.No.3171 of 2009 under Section 151 C.P.C. to direct the 4th respondent/4th defendant to pay an amount of Rs.50,000/- per month towards mesne profits in respect of plaint schedule property from 05-11-2005.

4. It is the contention of petitioner that he is the owner of the plaint schedule property, that 4th respondent is in occupation thereof illegally and if the plaint schedule property is let out to others, it would fetch not less than Rs.50,000/- per month.

5. Respondent Nos.1 and 4, however in their written

statement, took a plea that it is the 1st respondent, who is the owner of the property and 4th respondent is tenant of 1st respondent. Thus, the title to the property in question is in dispute in the suit.

6. By order dt.12-09-2013, the Court below dismissed the said I.A. stating that there is a cloud over the title of petitioner; there is denial of relationship of landlord and tenant between petitioner and himself by 4th respondent; plaintiff's side evidence is closed and D.W.1's evidence has commenced; since suit proceedings are coming to an end shortly, the suit itself would be disposed of; and recording a finding independently as to the rights of either party, is not proper in this application. It therefore directed the 4th respondent to cooperate for completion of evidence and to see that the main suit itself is disposed of expeditiously.

7. Challenging the same, this Revision is filed.

8. The learned counsel for petitioner contended that the Court below ought to have allowed the said application and directed the

4th respondent to pay Rs.50,000/- per month to petitioner since

4th respondent is in unauthorized occupation of the plaint

schedule property.

9. The pleadings of the parties indicate that dispute is raised by respondent Nos.1 and 4 as to the title of petitioner to the plaint schedule property. The 4th respondent has also not admitted that he is the tenant of petitioner but claimed to be the tenant of 1st respondent. Therefore, unless the suit is decided, it cannot be held that 4th respondent is tenant of petitioner. So the entitlement of petitioner for mesne profits cannot be decided. Therefore, I am of the opinion that the Court below was correct in not granting any relief to petitioner in I.A.No.3171 of 2009.

10. Accordingly, the Civil Revision Petition is dismissed. No costs.

11. Since the suit is of the year 2008, the Court below is directed to complete the trial in the suit preferably within a period of six months from the date of receipt of a copy of this order.

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

JUSTICE M.S. RAMACHANDRA RAO

Date: 24-06-2015

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