

rTHE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.2889 of 2013

ORDER:

Heard Sri J.Venkateswara Reddy, learned counsel for the petitioner. None appears for the respondent.

2. This Revision Petition is filed challenging the order dt.21-11-2012 in I.A.No.239 of 2012 in O.S.No.215 of 2012 of the VII Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar, Hyderabad.
3. Petitioner herein is the defendant in the said suit. The respondent/plaintiff filed the said suit for eviction of the petitioner, for recovery of arrears of rent and also damages alleging that the petitioner is also tenant and that the tenancy had been terminated by Ex.P-1 notice dt.05-09-2011. She alleged that the monthly rent is Rs.16,500/-.
4. Pending the suit, the respondent filed I.A.No.239 of 2012 under Order XV-A CPC against the petitioner seeking a direction to the petitioner to pay the monthly rent @ Rs.16,500/- with arrears from the month of July 2011 till the disposal of the main suit.
5. The petitioner filed a counter contending that it was the respondent who was in the habit of collecting rent irregularly and she had avoided to issue receipts for the payments received. The petitioner further contended that she vacated one portion out of the two portions in the ground floor of the suit premises in July 2011 and handed them over to the respondent and her husband and therefore, she is not liable to pay the rent for the entire ground floor.

6. By order dt.21-11-2012, the Court below allowed the said I.A. directing the petitioner to deposit Rs.2,50,500/- being the arrears of rent from July 2011 till November 2012. It also directed the petitioner to pay a sum of Rs.16,500/- per month into the Court till disposal of the main suit. It granted time up to 3rd January 2013 to deposit the sum of Rs.2,50,000/-.
7. Challenging the said order, the petitioner filed Revision Petition before this Court in June 2013. The petitioner did not comply with the order passed by the Court below.
8. Learned counsel for the petitioner states that the petitioner had vacated the suit schedule premises on 08-03-2013 itself and therefore, there is no necessity to comply with the order passed by the Court below.
9. Under Order XV-A CPC applicable in the State of Andhra Pradesh, in a suit for recovery of possession, the plaintiff can apply that defendant be directed to deposit undisputed arrears of rent in the Court and continue to deposit the rent till judgment is rendered in the suit. The Court is competent to pass an order after affording opportunity to both parties and fix a time for making such payment. Proviso to the said provision permits extension by the Court for reasons to be recorded only for a period not exceeding 15 days. If not, the Court has no choice but to strike off the defence.
10. Learned counsel for the petitioner contended that a sum of Rs.8250/- per month alone is payable and the balance amount out of Rs.16,500/- is not payable. But the Court below has given a finding that no document has been filed by the petitioner in

support of his plea that only Rs.8,250/- is payable. Since the tenancy itself is not disputed, if the petitioner intended to question either the quantum of rent or the calculation of arrears of rent as claimed by the respondent, the petitioner should have complied with the impugned order and then raise an issue in the suit on these points. In the present case, since the petitioner had not complied with the direction contained in the order dt.21-11-2012 in I.A.No.239 of 2012, and there is no power to extend the time for depositing beyond 18-01-2013, the Court has no choice but to strike off the defence of the petitioner.

11. Be that as it may, since there is no error of jurisdiction in the order passed by the Court below, the Civil Revision Petition is dismissed.

12. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 16-09-2015

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