

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION No.1095 of 2015

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27.03.2015

Between:

Mohd.Khaja Waliuddin

...Petitioner

And

Syed Irfaan Ahmed and others

...Respondents

Counsel for the petitioner: Sri Pramod Kumar Kedia

Counsel for respondents: --

The Court made the following:

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ORDER:

This civil revision petition arises out of the order, dated 27.01.2015, in I.A.No.336 of 2014 in O.S.No.1888 of 2013 on the file of learned VII Additional Senior Civil Judge, Ranga Reddy District.

Respondent Nos.1 to 3 filed the aforementioned suit for eviction of the petitioner, for recovery of arrears of rent from October, 2010 to September, 2013 and for mesne profits. They also filed the aforesaid I.A. under Order XVA read with Section 151 C.P.C. for a direction to the petitioner to deposit arrears of admitted rent from April, 2006 to December, 2013 and to strike off the defence in the event the rent is not deposited. The petitioner filed counter-affidavit contesting the said application. He has pleaded that as the suit claim is confined to the arrears of rent from October, 2010 to September, 2013, the plaintiffs cannot seek a direction to deposit arrears of

rent for the period anterior to October, 2010. He has further pleaded that he paid rent in cash till September, 2012 and from October, 2012 till September, 2013, he has paid rent through account payee cheques.

The lower Court has accepted the plea of the petitioner that the plaintiffs cannot claim rent for the period anterior to October, 2010 for the reason that such a claim travels beyond the scope of the suit. Accordingly, it has considered the claim of the plaintiffs for deposit of rent from October, 2010. The lower Court has observed that except the averments raised in the counter-affidavit that the petitioner paid rent in cash up to September, 2012 and through account payee cheques from October, 2012 to September, 2013, the petitioner has not produced any proof of such payments.

The learned counsel for the petitioner submitted that since the petitioner has filed the original receipts and the evidence relating to issue of cheques before the same Court in connection with another suit, he could not produce the evidence. In my opinion, this plea cannot be accepted for the reason that the petitioner ought to have filed an appropriate application before the lower Court to summon the record stated to have been filed in another suit. Admittedly, no such effort was made by the petitioner. In this uncontroverted fact situation, the lower Court is justified in directing the petitioner to deposit the arrears of admitted rent from October, 2010 till December, 2014 within the stipulated time mentioned in its order and thereafter, to continue to deposit admitted rent on or before 10th of every succeeding month. Therefore, I do not find any illegality or jurisdictional error in the order of the lower Court.

The Civil Revision Petition is accordingly dismissed.

As a sequel to dismissal of the civil revision petition, C.R.P.M.P.No.1502 of 2015 filed by the petitioner for interim relief shall stand dismissed as infructuous.

(C.V.NAGARJUNA REDDY, J)

27th March, 2015

GHN