HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.2370 of 2016

ORDER:

This Revision Petition under Article 227 of the Constitution of India is filed by the Revision Petitioners challenging the Order dt.11.02.2016 in I.A.No.4515 of 2015 in O.S.No.179 of 2015 on the file of I Additional Chief Judge, City Civil Court, Secunderabad, whereunder the trial Court directed the revision petitioners to deposit arrears of rent and service tax at 14% thereon within one month.

2. The only question raised before this Court is that the service tax payable on the amount includes rent and the second question is regarding repayment of refundable security deposit.

3. Order XV-A of Code of Civil Procedure, 1908 (for short 'CPC') enables the Court to issue a direction to the tenant in occupation when the suit is filed for ejectment and recovery of rent or ejectment alone, direct the tenant to pay admitted arrears of rent or license fee whatever name it called and if for any reason, the tenant pleads no arrears, Rule (2) enables the Court to determine the arrears after enquiry, affording reasonable opportunity to both the parties. Therefore, the Revision Petitioners did not question the jurisdiction of the trial Court in passing the Order but only questioned the direction for payment of service tax at 14%.

3. At this stage, Shyam S. Agarwal, learned counsel for revision respondent, drawn the attention of this Court to certain Clauses in lease agreement, more particularly, Clause-I-IV. According to it, the rent will not include service tax or any other tax or cess levied by the Government/Semi-Government agencies from time to time and the lessee is liable to pay the same, if levied. Thus, it is clear from the said Sub Clause 1 (iv) that rent is separately fixed at Rs.7,00,925/- as per Clause 1 (1) (c). Therefore, the service tax payable by the Revision Petitioners does not form part of rent and it is payable by the revision petitioners separately to the concerned authorities. In such a case, Order XV-A Rule 1 of CPC restricts the power of the Court to direct payment of arrears of rent or license fee whatever name it is called. Therefore, issuing a direction for payment of service tax is beyond the scope of Order XV-A and consequently, the Order to the extent of directing payment of service tax is set aside while upholding the order regarding deposit of arrears of rent and continue to deposit monthly rent, if continuing as a tenant in occupation of the property till he vacates the premises.

4. The other contention of the revision petitioners is that they deposited Rs.31,81,000/- as security which is repayable at the time of vacating the premises and they vacated the premises on 21.04.2016 and requested to issue direction for refund. But, it is beyond the scope of enquiry under Order XV-A of CPC. Therefore, no such direction be given, however liberty is given to the Revision Petitioners to file appropriate application before

appropriate authority, if advised. Therefore, this Civil Revision Petition is allowed-in-part.

5. Accordingly, this Revision Petition is allowed in part setting aside the Order in I.A.No.4515 of 2015 in O.S.No.179 of 2015 on the file of I Additional Chief Judge, City Civil Court, Secunderabad, setting aside the direction against revision petitioner to the extent of payment of Service Tax and continue to pay the same.

Consequently, miscellaneous petitions, if any, pending in this case shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 31-08-2016.

Note: Issue C.C. in three days.

B/o
eha

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.2370 of 2016

Dt. 31.08-2016

eha