

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.4187 of 2016

ORDER:

This Civil Revision Petition under Section 115 of Code of Civil Procedure (for short 'CPC') is filed to set aside the dismissal Order dt. 28.07.2016 in I.A.No.883 of 2016 in A.S.No.137 of 2016 filed under Order 41 Rule 5(1) for grant of interim stay of the execution of the decree in O.S.No.147 of 2014 on the file of VII Senior Civil Judge, City Civil Court, Hyderabad.

2. The appellate Court dismissed the petition filed by the revision Petitioner on the ground that he did not comply the direction issued earlier in the suit and more particularly, deposit of Rs.2,94,308/- and failed to deposit subsequent rent or damages which were the name it is called, as directed by the trial Court. Now, the revision petitioner's contention is that unless the execution of the decree is stayed, he will be put to substantial injury, which is a requirement under Order 41 Rule 5 (3) of CPC to grant an interim stay, but the petitioner/tenant cannot be allowed to continue in occupation of the premises and even without paying rent or damages for the future periods while continuing in occupation. Therefore, the petitioner agreed, at this stage, to deposit arrears of rent, as directed by the trial Court, and future rent/damages within six weeks, the respondent's counsel fairly conceded to issue a direction to

deposit of 50% of the amount due as on today within two weeks and the balance amount within six weeks.

3. Therefore, considering the facts and circumstances of the case, this Civil Revision Petition is allowed granting *interim* stay subject to deposit of 50% arrears of rent till date within two weeks from today along with suit costs, balance of arrears within six weeks from today, and continue to deposit @ Rs.15,000/- per month on or before every 5th of succeeding month either as rent or damages for use and occupation of the premises till delivery of vacant possession, pending appeal, as agreed by the petitioner. In the event of failure to comply any of the conditions, the interim stay granted by this Court shall stand automatically vacated.

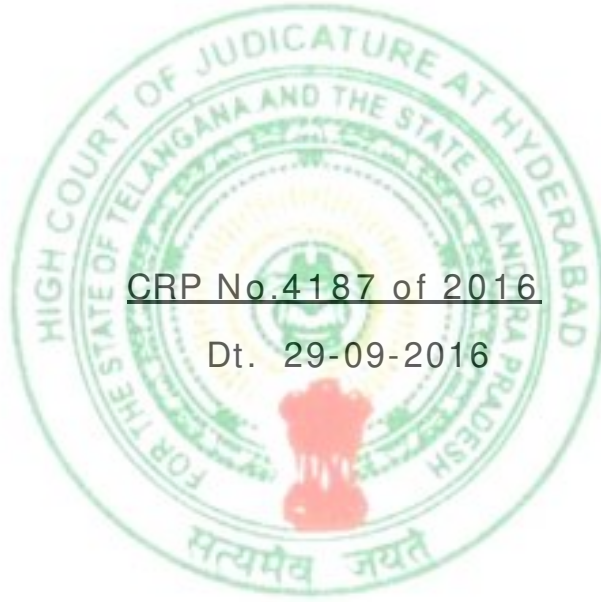
As a sequel, miscellaneous petitions, if any, pending in this case, shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 29-09-2016.

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