

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.5111 of 2016

ORDER :

The revision is filed impugning the order in I.A.No.185 of 2016 dated 16.08.2016 passed by the learned IV-Additional Rent Controller, Hyderabad, in the pending R.C.No.138 of 2013 under enquiry/trial. The said application is filed to receive certified copy of the order in I.A.No.215 of 2016 in R.A.No.135 of 2016 dated 02.06.2016 suspending the operation of the order passed in R.C.No.30 of 2008 dated 15.03.2008. The said application was dismissed by the lower Court saying the said stay order is irrelevant for the scope of enquiry in the order in R.C.No.138 of 2013.

2. The factual matrix necessary to mention is R.C.No.30 of 2008 is filed by the revision petitioners against three respondents including the eviction petitioner in R.C.No.138 of 2013 i.e., Jamia Nizamia, represented by its Secretary arraying as the 2nd respondent though got mentioned as Secretary of Jamiz Nizamia, leave about two more persons in saying they are also claiming as owners to the premises demanding for payment of rent, hence to permit to deposit the rent as per Section 9 of the Andhra Pradesh Buildings (Lease, Rent & Eviction) Control Act, 1960 (for short, 'the Act'), that Rent Control Application R.C.No.30 of 2008 was disposed of as referred supra, by directing the tenants, who are the revision petitioners herein, to pay to the 2nd respondent i.e., eviction petitioner herein. This eviction petition is filed on the ground that there is non-payment of rents and it

is a willful default, liable to be evicted therefrom. It is in the factual scenario once the order in R.C.No.30 of 2008 is suspended pending R.A.No.135 of 2008 as per the application in I.A.No.215 of 2016 dated 02.06.2016 and the same is claimed as relevant to exhibit by the respondents to the eviction case, the dismissal of the application by the lower Court is not correct. In fact, in the evidence of respondents, RW.1 filed chief-examination affidavit and also cross-examination stated to have been completed, there is a reference as Ex.A.20-certified copy of the order dated 02.06.2016 in I.A.No.25 of 2016 in R.A.No.135 of 2016 dated 02.06.2016. Whereas, in the cross-examination Ex.P.20 is referred as the certified copy of the order dated 15.03.2016 in R.C.No.30 of 2008 and there is no reference of the same is received and exhibited. It is not even the observation of the lower Court. There is any amount of cloud as pointed out by the counsel for the revision respondent.

3. Having regard to the above, if the document covered by the order in I.A.No.215 of 2016 in pending R.A.No.135 of 2016 dated 02.06.2016 is not received and exhibited by the Rent Controller in R.C.No.138 of 2013, the same shall be received by virtue of this order. If received and exhibited, permitted to lead evidence with reference to it.

4. Accordingly, the revision is disposed of, directing the lower Court to permit for adducing evidence with reference to the document

also by giving one more opportunity to the respondent with right of cross-examination to the petitioner of R.C.No.138 of 2013.

5. Miscellaneous petitions pending, if any, shall stand closed. No costs.

Dr. B. SIVA SANKARA RAO, J

15th December 2016.

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