

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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Civil Revision Petition No.346 of 2016

ORDER:

This revision, under Article 227 of the Constitution of India, is preferred by the plaintiff in O.S.No.2100 of 2001 against the order passed by the XXV Additional Chief Judge, Hyderabad in I.A.No.1454 of 2015 in I.A.No.765 of 2015 in A.S.No.69 of 2015 dated 03.11.2015.

I.A.No.1454 of 2015 was filed by the respondents herein requesting the Court below to continue the stay order dated 01.05.2015, passed in I.A.No.765 of 2015, until further orders. By its order in I.A.No.765 of 2015 dated 01.05.2015, the appellate Court had granted stay of execution and operation of the judgment and decree dated 19.01.2015 passed in O.S.No.2100 of 2001, on condition that the petitioner-appellant paid monthly rents on or before the 7th of each succeeding month. The appellate Court observed that, in case of default in payment of rents as directed, the stay would stand vacated.

The rent, for the month of May, 2015, was payable on or before 07.06.2015. The respondents herein are said to have obtained a bankers cheque on 11.06.2015, and another bankers cheque for the month of June, 2015 on 07.07.2015, and to have sent both the bankers cheques to the counsel for the plaintiff through registered post with acknowledgement due. The Court below noted that the delay in obtaining the bankers cheque dated 11.06.2015 was merely three days; the petitioners were aware that the respondent was out of India; and, therefore, the appellants could be given an opportunity to prosecute the appeal by continuing the stay subject to terms. The interim order of stay granted in I.A.No.765 of 2015 dated 01.05.2015 was continued on payment of costs of Rs.2,000/- to the petitioner herein or to his counsel on or before 17.11.2015 and, in default, the application was to stand dismissed.

While Sri D.Vijaya Kumar, Learned Counsel for the petitioner,

would submit that, as the conditional order passed by the Court below on 01.05.2015 has not been complied with, and the Court below had shown undue indulgence towards the respondents herein in extending the order of stay on payment of costs of Rs.2,000/-, it is evident from the order of the Court below that the delay in payment of the rent, for the month of May, 2015, was merely 3 days; and the bankers cheque for the rent for the month of June, 2015 was taken within time i.e. on 07.07.2015. The Court below has, for just and valid reasons, exercised its discretion to extend the interim stay granted earlier on condition that the respondents herein pay costs of Rs.2,000/- to the revision petitioner or to his counsel which amount has, admittedly, been paid. Exercise of discretion by the Court below is not such as to result in patent illegality necessitating interference under Article 227 of the Constitution of India. I see no reason, therefore, to exercise discretion to interfere with the order under revision.

Sri D.Vijaya Kumar, Learned Counsel for the petitioner, would request that the Court below may be directed to dispose of the appeal within a specified time frame. It would be wholly inappropriate for this Court to fix a time frame for the appellate Court to dispose of the appeal, more so in relation to an appeal filed in the year 2015. I have no reason to doubt that, on an application being made in this regard, the Court below would examine the request for an early hearing in accordance with law.

The Civil Revision Petition fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

RAMESH RANGANATHAN, J.

Date:08.07.2016.

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