

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Civil Revision Petition No.238 of 2016

ORDER:

This civil revision petition under Article 227 of the Constitution of India by the 2nd defendant is directed against the orders dated 17.11.2015 of the learned I Additional District Judge, Khammam passed in CMA.No.22 of 2015 whereby the learned Additional District Judge while dismissing the said CMA had confirmed the order and decretal order dated 27.07.2015 of the learned Principal Junior Civil Judge, Khammam passed in IA.No.904 of 2014 in OS.No.361 of 2014 filed by the plaintiff/1st respondent herein for a temporary injunction restraining the petitioner herein/1st defendant/landlord from interfering with the peaceful possession and enjoyment of the mulgi, which is in his possession as a tenant.

2. I have heard the submissions of the learned counsel for the revision petitioner/2nd defendant. I have perused the material record.

3. The facts, in brief, are as follows:

The plaintiff is admittedly a tenant in a mulgi of the defendants, who are father and sons. There is a dispute about quantum of rent. According to the tenant, the present monthly rent is Rs.2,000/- whereas according to the landlords, the monthly rent is Rs.10,000/-. The plaintiff brought the suit for a perpetual injunction not to evict him from the schedule mulgi and also filed the interlocutory application in IA.No.904 of 2014 for a temporary injunction to restrain the landlords/defendants from interfering with the peaceful possession and enjoyment over the suit mulgi pending final disposal of the suit. The said petition was resisted by the landlords/defendants. At the time of enquiry, exhibits P1 to P11 were marked on the side of the plaintiff; no documents were marked on the side of the defendants. On merits, the trial court had allowed the petition and granted a temporary injunction as prayed

for and the said orders were confirmed in the CMA. Therefore, the 2nd defendant is before this Court.

4. The learned counsel for the 2nd defendant would submit that the rent is Rs.10,000/- per month and that the plaintiff had made a false averment that the rent is Rs.2,000/- per month; and that the trial Court had failed to see that even the admitted rent of Rs.2,000/- was not paid from January, 2014; and that the landlords had already filed a suit for eviction and recovery of arrears of rent; and that the relief of temporary injunction being an equitable relief, the tenant who is a defaulter, is not entitled to such a relief; and that the trial Court ought to have, therefore, dismissed the application for temporary injunction.

5. I have bestowed my attention to the facts and given earnest consideration to the submissions. As already noted, the relationship of landlords and tenant between the parties is not in dispute. There is a dispute in regard to the quantum of rent. In this civil revision petition, which arises from an interlocutory order of the trial Court passed in an application seeking temporary injunction, eventually, this Court need not go into the aspect of quantum of rent as the said aspect has to be decided in the suit filed by the landlords for eviction and recovery of arrears of rents. In this CRP, this Court also need not go into the question as to whether the tenant had paid monthly rent even at the admitted rate of Rs.2,000/- from January 2014 onwards. Since one of the reliefs claimed in the suit of the landlords is also for recovery of the arrears of rent, that aspect need not be prejudged in this CRP arising from the interlocutory orders granted in favour of the tenant in his suit for perpetual injunction. Therefore, it is for the landlords, if they so choose, to file an appropriate application under Order 15-A of the Code for appropriate relief in the suit for eviction. Hence, this Court finds that there is no substance in the contentions raised in the grounds of revision and that the revision petition is *de void* of merit as a temporary injunction is only granted in favour of the tenant to protect his possession till the disposal of the suit filed for perpetual injunction.

6. In the result, the Civil Revision Petition is dismissed at the stage of

admission observing that it is always open to the revision petitioner/2nd defendant or the 1st defendant to file, if they so choose and desire, an appropriate application under Order 15-A of the Code, in the suit for eviction, for an appropriate relief, which the law permits. It is needless to mention that if any such application comes to be filed, the trial Court shall give an opportunity to the defendant/tenant to file his counter and then dispose of the same on merits and in accordance with the procedure established by law. There shall be no order as to costs.

Miscellaneous petitions pending, if any, in this civil revision petition shall stand closed.

M. SEETHARAMA MURTI, J

Date:22.02.2016

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