

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.2823 of 2016

ORDER

This petition is filed under Article 227 of the Constitution of India challenging the order dated 28.03.2016 passed by the III Additional Chief Judge, City Civil Court, Hyderabad, in IA.No.1786 of 2015 in OS.No.484 of 2015 filed under Order 15 A read with Section 151 of Code of Civil Procedure whereby issued a direction to the revision petitioner to deposit Rs.4,00,000/- per month towards rent to the credit of the suit during pendency of the suit in addition to the payment of electricity charges, property tax and other service charges if any with effect from the date of petition.

The undisputed fact is that the revision petitioner obtained premises bearing No.5-8-525/B, situated at Jagdish Market, Opp.Wall King, on monthly rent of Rs.4 lakhs. The total extent of the plinth area of property let out by the respondent to the revision petitioner is 4000 sq.feet. As per the lease agreement, the revision petitioner has to pay electricity charges, property tax, service tax and other charges. However, the revision petitioner admitted that he took possession of the property and constructed Cubicals incurring Rs.49 lakhs for such cubicals, but premises is not being used for business till today and kept idle and thereby not liable to pay arrears of admitted rent.

The rental agreement is filed along with the petition, as per Clause 3, the respondent agreed to pay monthly rent @ Rs.4 lakhs payable on or before 15th of every month in advance as per Gragarian calendar, besides other conditions. In terms of rental agreement, admittedly the revision petitioner did not pay rent from June, 2014 onwards. The respondent's contention is that there is

dispute regarding payment of rent for the period prior to June, 2014 i.e. from January 2014 to May, 2014.

As per Order 15 A, Rules 1 and 2 (A.P.State Amendment) by G.O.Rt.No.156, Law (LA) Home Courts-D1, dated 29.01.2005, in a suit for recovery of possession, on termination of lease or licence, with or without a prayer for recovery of arrears of rent, or licence fee, known with whatever description, the defendant, while filing his written statement, shall deposit the amount, representing the undisputed arrears, calculated upto that due into the Court and shall continue to deposit such amount, which becomes payable thereafter within one week from the date on which it becomes due, till the Judgment is rendered in the suit. Thus, Rule-1 obligates the defendant to deposit the arrears of rent due by then along with written statement and continue to deposit the rent during pendency of the suit. If any such deposit is not made, on application the Court can pass an order directing payment of arrears of rent or licence fee after affording an opportunity to both the parties. In the explanation thereto clarified the expression 'the amount representing the undisputed arrears' shall mean the sum of rent, or licence fee calculated for the period for which it remained unpaid, after deducting from it any amount paid as tax, to a local authority, in respect of the property; paid to the plaintiff under written acknowledgment, and deposited into the Court, in any proceedings, in relation to the said property. Therefore, the Court is competent to direct the tenant to deposit the undisputed arrears i.e. from June, 2014 onwards @ Rs.4.00 lakhs per month. The trial Court directed the revision petitioner to deposit electricity charges, property tax and other service charges from the date of petition and continue to deposit. These charges would not form part of

rent accrued to be paid as per Clause No.3 of the lease deed. Therefore, the direction issued by the trial Court for payment of electricity charges, property tax and other service charges is against the purport of Order 15-A CPC. As such, the order to the extent directing the revision petitioner to pay electricity charges, property tax and other service charges etc. is hereby set aside as it is beyond the scope of Order 15- A CPC.

The learned counsel for the petitioner while contending that the respondent did not deliver the vacant possession of 500 Sq.feet and failed to provide amenities, drawn the attention of this Court to the registered correspondence between the petitioner and the respondent. When the revision petitioner accepted that he constructed cubicals that itself is sufficient to conclude that possession was delivered and the scope of the petition under Order 15-A is limited, and this Court is not required to go into the other allegations like failure to provide amenities and delivery of vacant possession which is in dispute. Even otherwise, payment of monthly rent of Rs.4.00 lakhs is not subject to providing amenities as contended by the counsel for the revision petitioner. Therefore, it is not a ground to set aside the order passed by the trial Court while exercising power under Article 227 of the Constitution of India. The power of this Court under Article 227 is limited and it is supervisory in nature. If the trial Court exceeds its power in passing an order, this Court can interfere with it. So, the order passed by the trial Court directing to pay electricity charges, property tax etc is beyond the scope of Order 15A CPC, and thus, the trial Court exceeded its power conferred by Order 15A CPC. Hence, the said part of the order is set aside while confirming the direction against the revision petitioner for payment of arrears of rent from June 2014 till the date of petition and continue to deposit

the rent every month during pendency of the suit. Accordingly, the order dated 28.03.2016 passed in IA.No.1786 of 2015 in OS.No.484 of 2015 is modified.

In the result, the revision petition is allowed in part setting aside the direction against the revision petitioner for payment of Electricity Charges, property tax and other service charges while confirming the other part. No order as to costs.

Miscellaneous petitions, if any, pending in the Civil Revision petition shall stand closed.

M.SATYANARAYANA MURTHY, J

11.08.2016
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