

HON'BLE SRI JUSTICE S.V.BHATT

C.R.P.No.752 OF 2016

ORDER:

Heard Mr.T.C.Krishnan for petitioners.

Respondents in A.S.No.21 of 2015 in the Court of I Additional District Judge, Nellore are the revision petitioners. The C.R.P. is filed challenging the conditional order of stay granted by the appellate Court, as illegal and amounts to exercising the discretion not conferred on the Court. The operative portion of the order under revision reads thus:

“Taking into consideration of the fact that hearing of the main appeal would take considerable time and also that the appellant is apprehending that the respondent would file execution petition and get him evicted during the pendency of the appeal, if stay is not granted, this is a case where this Court can exercise the discretion to grant stay of execution of the decree during the pendency of the appeal. The respondent stated that there are arrears of rent payable by the appellant, but he has not stated what is the quantum of rent that are due. Petitioner/appellant stated that there are no arrears of rent.

In the result, the petition is allowed stay of execution is granted pending appeal on condition to deposit suit costs and on further condition to deposit all arrears of rent if any due up to the date of filing of the appeal and continue to deposit the rent to the respondent and also to pay property tax to the premises regularly and furnish the copy of receipt to the respondent.”

The revision petitioners are the plaintiffs and the suit is one for eviction of respondent from the suit schedule property. If the stay of execution of decree is not granted, the respondent suffers irreparable hardship and injury at the time of hearing of appeal or thereafter. So I see no illegality or reason to interfere with the discretionary order passed by the appellate Court.

The learned I Additional District Judge is directed to hear and dispose of A.S.No.21 of 2015 as early as possible positively within a period of six months from the date of receipt of a copy of this order.

The C.R.P. is disposed of. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT,J

Date:19.02.2016

Stp