

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.3483 of 2016

ORDER :

Heard the counsel for petitioner; and Sri E.V.V.S. Ravi Kumar, counsel for respondent.

2. The petitioner has questioned the order dt.14.07.2016 in I.A.No.454 of 2016 in R.C.A.No.1 of 2016 passed by the Senior Civil Judge, Bhimavaram dismissing the application filed by petitioner for stay of execution of the decree in E.P.No.2 of 2016 in R.C.C.No.5 of 2012 on the file of the Rent Controller-cum-Principal Junior Civil Judge, Bhimavaram, pending disposal of R.C.A.No.1 of 2016.

3. The petitioner herein is tenant of respondent.

4. The respondent filed on R.C.C.No.5 of 2012 against petitioner before the Rent Controller-cum-Principal Senior Civil Judge, Bhimavaram for his eviction. The said R.C.C. was allowed on 22.12.2015.

5. Thereafter, the petitioner filed 05.02.2016 R.C.A.No.1 of 2016 before the Appellate Authority-cum-Senior Civil Judge, Bhimavaram. However, he did not file the stay application immediately.

6. Thereafter, the respondent filed E.P.No.2 of 2016

to execute the decree.

7. On 04.07.2016, i.e., more than six months after the appeal was filed on 05.02.2016, the petitioner filed application seeking stay of execution of the order dt.22.12.2015 in R.C.C.No.5 of 2012. The Court below held the petitioner had not been paying rents since 2012, that there is not even an undertaking in the stay application at the time of filing of the R.C.A. that he is ready and willing to pay the rents, and dismissed I.A.No.454 of 2016 in R.C.A.No.1 of 2016 on 14.07.2016.

8. Thereafter, the decree of eviction was executed by the Court Amin on 16.07.2016.

9. On 18.07.2016, the present Revision was filed, and on 19.07.2016 this Court granted stay of eviction of petitioner for a period of four (04) weeks.

10. The counsel for respondent submits that even by the date this Court passed the order of stay, the petitioner had been evicted; that suppressing this fact, the present Revision is filed. The counsel for respondent has also filed the docket proceedings and the *panchanama* prepared by the Court Amin showing delivery of possession which are not disputed by counsel for petitioner.

11. Although the counsel for petitioner sought to contend that petitioner has a strong case in the appeal and the Court below was not correct in dismissing the said

application, in view of the fact that petitioner had not paid any arrears of rent and has also not given any undertaking in the appeal showing his readiness and willingness to pay the rents regularly as observed by the Court below, I am of the opinion that the Court below was correct in dismissing I.A.No.454 of 2016.

12. Since the decree of eviction passed in R.C.C.No.5 of 2012 on 22.12.2015 by the Rent Controller has been executed before the order of stay was granted by this Court, I am not inclined to continue with the order of stay granted by this Court on 19.07.2016, and it is accordingly vacated.

13. However, it is made clear that respondent shall not alienate or encumber the R.C.C. schedule property till the disposal of appeal R.C.A.No.1 of 2016, and if the petitioner succeeds in the R.C.A. he may apply to the Court below for restitution.

14. The Senior Civil Judge, Bhimavaram is also directed to dispose of the R.C.A. as expeditiously as possible, preferably within a period of three (03) months from the date of receipt of a copy of this order since the respondent is a senior citizen.

15. Accordingly, the Civil Revision Petition is dismissed with the above observations. No order as to costs.

16. As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 19-08-2016

Ndr/*