

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

C.R.P. Nos.4308 and 4309 OF 2016

COMMON ORDER:

These two revisions are filed against the dismissal order dated 11.08.2016 passed in I.A. Nos.240 of 2016 and 242 of 2016 respectively in O.S. No.238 of 2011 on the file of XIII Additional Chief Judge (FTC), City Civil Court, Hyderabad.

2) The revision petitioners are plaintiffs and respondents are defendants in O.S. No.238 of 2011. The revision petitioners have filed O.S. No.238 of 2011 for Eviction and Mesne Profits against respondent/ defendant and the said suit was dismissed on 21.10.2014. Aggrieved by the said judgment and decree, the revision petitioners preferred an appeal vide CCCA No.4 of 2015 before this Court. This Court set-aside the judgment and decree on 21.10.2014 and decreed the suit on 29.01.2016 directing the respondent to vacate the schedule premises by 31.01.2017 and also observed that enquiry with respect to the determination of the Mesne profits from the date of suit can be decided on separate enquiry application filed by appointing the advocate commissioner before the lower Court by appointing the advocate commissioner before the lower Court under Order XX Rule 12 C.P.C. Further, the revision petitioners filed I.A. No.240 of 2016 to direct the respondent to furnish security to the amount of Rs.2,43,00,000/- for the period 07.03.2011 to 31.01.2017 (81 months) approximate mesne profits payable by the respondent and failing which the Hon'ble Court may attach the movable articles described in the schedule. Further, the revision petitioners filed I.A. No.242 of 2016 to direct the respondent to pay the admitted amount of rent/

damages @ Rs.99,000/- per month (as admitted rent/ damages contended by the respondent) from September, 2014 to 20.02.2016 aggregating to Rs.17,82,000/-.

3) The said two applications were dismissed on 11.08.2016 vide separate orders directing the respondents to furnish security to the amount of Rs.2,34,00,000/- for the period of 07.03.2011 to 31.01.2017 and directing the respondents to pay the admitted amount of Rent/ damages @ Rs.99,000/- from September, 2014 to 29.02.2016 aggregating to Rs.17,82,000/-.

4) A perusal of the impugned order of the lower Court is one line order without assigning reasons much less to consider the scope of Order XXXVIII Rule 5 C.P.C read with Section 94 C.P.C or even under Order XXI Rule 42 C.P.C of any direction required or not to furnish security or any case made out or not. Thereby, it is liable to be set aside by remanding the matter to the lower Court with a direction to decide afresh by assigning reasons. So far as the deposit of the so—called undisputed rent concerned, the same is also by lack of reasons and equally liable to be set aside.

5) Accordingly, both the revisions are allowed to that extent and remanded the matter directing the lower Court to hear and decide the matter on its own merits by assigning the reasons as early as possible.

6) Consequently, pending miscellaneous petitions, if any, shall stand dismissed.

Dr.JUSTICE B. SIVA SANKARA RAO

Dt.26.10.2016
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