

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO. 3641 OF 2016

ORDER:

Aggrieved by the order in I.A.No. 233/2015 (old)/I.A.No. 308/2016 (new) in O.S.No. 23 of 2016 filed under Order XV A CPC, on the file of III Additional Chief Judge, City Civil Court, Hyderabad, petitioner/defendant preferred this Civil Revision Petition under Article 227 of the Constitution of India, challenging the order dated 25.4.2016 directing the defendant to deposit the rents @ Rs. 39,000/- per month to the credit of the case from 1.6.2015 pending disposal of the suit and continue to deposit the rent till disposal of the suit.

2. The respondent/plaintiff filed an application under Order 15-A CPC seeking a direction against the revision petitioner to pay admitted arrears of rent from November 2013 till the end of May 2015 and continue to deposit rent @ Rs. 55,000/- per month alleging that the respondent/plaintiff is the owner and landlord of the suit premises and the petitioner/defendant herein is the tenant (over a part) of it on a monthly rent of Rs. 55,000/- exclusive of electricity, water and property charges and taxes. But the petitioner/defendant willfully withhold the rent from November 2013 and also filed a false suit for recovery of money of Rs. 15,96,000/- against the respondent/plaintiff which is pending and the petitioner/defendant is ready to refund the balance amount of Rs. 5,08,000/- by deducting the arrears of rent up to 2015.

3. The respondent/plaintiff denied the relationship of landlord and tenant and while contending that the respondent/plaintiff obtained the premises on lease, by lease agreement dated 8.1.2013 on a monthly rent of Rs. 35,000/- and he has been paying the rents at Rs. 39,000/- per month directly to the petitioner/defendant and prayed for dismissal of the petition.

4. To substantiate the case of the respondent/plaintiff, Exs. R-1 to R-9 were marked and on behalf of petitioner/defendant no document was marked.

5. Upon hearing arguments of both the counsel, the trial Court allowed the petition and the petitioner was directed to deposit admitted arrears of rent from 1.6.2015 pending disposal of the suit. Aggrieved by the same, the present revision is filed.

6. Learned counsel appearing for the petitioner Sri M. Radhakrishna, contended that the order of the trial Court is erroneous and in the entire order none of the documents were discussed and on the other hand, at the end of the judgment in the appendix of evidence it is mentioned that "no documents were marked on behalf of the respondent".

7. Learned counsel appearing for the petitioner filed certified copies of the exhibits marked before the trial Court by following the procedure under Rule 60 of Civil Rules of Practice.

8. It shows that the respondent produced as many as 9 documents and they were marked as Ex. R1 to R9. The entire order commencing from paragraphs 5 to 9 is silent with regard to the filing of documents and nature of documents referred to. Therefore, the trial Court failed to exercise its jurisdiction conferred on it and in such circumstances, under Article 227 of the Constitution of India, which is a supervisory in nature, can interfere with such finding recorded by the trial Court. Hence, I find that it is a fit case to remand the matter to the trial Court to decide the interlocutory application afresh, considering Exs. R1 to R9, within one month from the date of receipt of a copy of this order and pass orders in accordance with law.

9. With the above direction, the Civil Revision Petition is allowed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, pending if any, shall stand closed.

JUSTICE M.SATYANARAYANA MURTHY

Date: 16.08.2016
KA