

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.416 OF 2017

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dated 02.12.2016 in I.A.No.188 of 2016 in O.S.No.1924 of 2016 on the file of the XIX Junior Civil Judge, City Civil Court at Hyderabad.

2. A perusal of the record reveals that the respondent herein filed O.S.No.1924 of 2016 on the file of the XIX Junior Civil Judge, City Civil Court at Hyderabad, against the petitioner for ejectment of the petitioner from the plaint schedule property. The respondent filed I.A.No.188 of 2016 under Order 15-A read with Section 151 of C.P.C. to direct the petitioner herein to deposit the rents with effect from November, 2015. The trial Court, after affording a reasonable opportunity to both parties, allowed the petition. Feeling aggrieved by the order of the trial Court, the petitioner preferred the present revision petition.

3. The predominant contention of the learned counsel for the petitioner is that the trial Court has not considered the documents filed by the petitioner and passed the impugned order. He further submitted that the order passed by the trial Court is not sustainable either on facts or in law.

4. *Per contra*, the learned counsel for the respondent submitted that the petitioner did not file even a single scrap of paper to prove that she paid the monthly rents. He further submitted that the

petitioner is not entitled to continue as a tenant in the suit schedule property without paying the monthly rents.

5. The following admitted facts can be culled out from the pleadings:

The respondent herein is the owner of the premises bearing No.102, first floor, H.No.2-3-64/14 of Andal Nilayam, Tirumala Nagar, Amberpet, Hyderabad. The petitioner is the tenant of the respondent from 2007 onwards. The admitted rent of the suit schedule premises is Rs.10,000/- per month. It is the case of the petitioner that the driver of the respondent used to collect the rents and failed to issue receipts. It is the further case of the petitioner that the respondent herein collected Rs.50,000/- per year from the petitioner for the years 2008, 2009 and 2010.

6. It is the duty of the petitioner to prove that she has been paying rents to the respondent by producing cogent and convincing evidence. The petitioner did not choose to file even a single scrap of paper to prove that she has been paying the rents regularly to the respondent with effect from November, 2015. Whether the driver of the respondent failed to issue rent receipts in favour of the petitioner is purely a disputed question of fact, which cannot be gone into while deciding the interlocutory application. In the impugned order, the trial Court in paragraph No.14 made an observation that the petitioner did not file any document to prove that she has been paying the rents. If really the respondent retained the money of the petitioner, what prevented her to issue legal notice to the respondent? The petitioner has not offered proper explanation for not taking appropriate steps in this

direction. While deciding the petitions of this nature, the Court has to strike a balance between the parties. If the petitioner is allowed to continue in the premises without paying the rents, the same may cause untold hardship and prejudice to the respondent, who is the landlord. The trial Court has assigned reasons much less cogent and valid reasons to its findings. I am fully agreeing with the findings recorded by the trial Court. There is no illegality or irregularity in the order of the trial Court, which warrants interference of this Court while exercising the jurisdiction under Article 227 of the Constitution of India. Hence, the revision lacks merits and *bona fides*.

7. Having regard to the facts and circumstances of the case, the Civil Revision Petition is dismissed. However, the observations, if any, made by this Court shall be confined to this revision petition only. There shall be no order as to costs.

8. Consequently, Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 02.03.2017

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