

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Civil Revision Petition No.277 of 2017

Order:

Aggrieved by one portion of a conditional order of stay granted by the 1st Appellate Court in favour of the respondent herein, in an appeal arising out of an order of eviction, the plaintiff/landlord has come up with the present revision petition.

2. Heard Mr. V.S.R. Anjaneyulu, learned counsel for the petitioner and Mr. V.Raghu, learned counsel for the respondent.

3. The Trial Court ordered eviction after recording a finding that the monthly rent was Rs.12,000/- and not Rs.2,200/- as claimed by the respondent/tenant. While granting a stay, the 1st Appellate Court imposed 3 conditions which could be found in para-8 of the order. After imposing 3 conditions, the Court below permitted the petitioner/ landlord to withdraw only the admitted rent from out of the deposit to be made by the respondent. Paragraphs-8 and 9 of the order of the Court below read as follows:

“8. As could be seen from the Judgment of the Trial Court, the petitioner is still due Rs.25,000/- towards arrears of rent, therefore, the petition is allowed on condition :

- a) to deposit the arrears of Rs.25,000/-;
- b) to deposit costs of the suit; and
- c) to continue to deposit Rs.12,000/- per month before the Trial Court on or before 10th of every month.

9. The petitioner shall deposit Rs.25,000/- and suit costs within a month from today. On deposit of arrears of Rs.25,000/- and suit costs the respondent is at liberty to withdraw the same from the Trial Court by filing appropriate application. Out of deposit of Rs.12,000/- per month the respondent is entitled to withdraw Rs.2,000/-

per month. If the petitioner fails to deposit the amount as ordered above the stay granted by this Court shall stand automatically vacated.”

4. The only grievance of the petitioner/landlord is that when there was a categorical finding about the monthly rent to be Rs.12,000/- per month, the Court below should not have allowed the withdrawal of Rs.2,000/- per month, which was even lower than the admitted rent. This grievance, is fairly justified.

5. As a matter of fact, it was the respondent/tenant who filed as Ext.B-7 the Income Tax Returns of the petitioner/landlord which showed Rs.12,000/- to be the monthly rent. Therefore, the Lower Appellate Court was wrong in permitting the petitioner to withdraw only Rs.2,000/-.

6. Hence, the revision is allowed, modifying the order of the Appellate Court to the limited extent, permitting the petitioner to withdraw the amount of Rs.12,000/- (Rupees twelve thousand only) per month as deposited by the respondent during the pendency of the regular first appeal. However, such withdrawal shall be subject to the condition that the petitioner should abide by the final outcome of the appeal, with respect to the quantum of rent. The miscellaneous petitions, if any, pending in this revision shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

10th March, 2017.
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