

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No.5827 of 2016

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, by the petitioner/defendant is directed against the order, dated 23.09.2016, of the learned III Junior Civil Judge, City Civil Courts at Hyderabad, passed in I.A.No.510 of 2015 in O.S.No.1422 of 2015.

2. I have heard the submissions of *Sri K.Madhusudhan Reddy*, learned counsel appearing for the petitioner/defendant and of *Sri T.S.Anand*, learned counsel appearing for the respondent/plaintiff. I have perused the material record.

3. For the sake of convenience, the parties hereinafter will be referred to as they are arrayed before the trial Court.

4. The facts, which lie in a narrow compass, in brief, are as follows:

The plaintiff brought the suit against the defendant for eviction and for recovery of arrears of rent, damages and costs. The defendant is resisting the suit. The plaintiff filed the afore-stated I.A. to direct the defendant to pay arrears due as on November, 2015 and to further direct the defendant to continue to pay monthly rent @ Rs.7,500/- per month regularly till the disposal of the main suit. The defendant filed a counter resisting the said application. By the order impugned in this revision, the trial Court allowed the petition of the plaintiff and directed the defendant to pay or deposit the arrears of rent within one month from the date of receipt of a copy of the said order and further directed the defendant to pay future monthly rents regularly on or before 10th of every month. Aggrieved thereof, the defendant filed this revision.

5. Learned counsel for the defendant would submit as follows:

“The jural relationship is admitted but the order impugned is unsustainable under facts and in law as the defendant disputed the arrears of rent. The trial Court failed to consider the submissions of the defendant that he has undertaken repairs to the property on the understanding that the amount spent on the repairs would be adjusted towards arrears of rent. Therefore, the order is liable to be set aside.”

6. Learned counsel for the plaintiff, while reiterating the case of the plaintiff, would submit as follows:

“The understanding pleaded by the defendant is not correct. The defendant is not paying the rents. Therefore, the plaintiff is constrained to file the petition to direct the defendant to pay arrears of rent every month regularly. In the facts and circumstances of the case, the order impugned is justified and does not warrant interference.”

7. At the hearing, the learned counsel for the defendant would submit that according to the calculation of the defendant, the arrears are in a sum of Rs.1,80,000/-. Out of the said arrears, Rs.1,20,000/- is already paid and the balance of Rs.60,000/- is due. The defendant already filed CRP MP No.2385 of 2017 in February, 2017 seeking extension of time for making deposit of the balance of arrears of rent. He would further submit that for non deposit of rents as per the orders impugned in this revision, the plaintiff also filed an application to strike off the defence of the defendant and the said application is pending before the trial court. However, the learned counsel for the plaintiff would submit that the arrears are Rs.1,80,000/- upto June, 2017; that the defendant is not paying the monthly rents regularly; that the application seeking extension of time is filed in February, 2017; and that the time of six weeks has already expired and, therefore, there is no need to grant any time for making the deposit of the balance amount.

8. Be it noted that, after hearing both sides on 05.01.2017, this Court passed the following interim order.

“Heard.

Pending further hearing of the revision, the trial Court shall proceed to decide the matter on merits by not deciding the application to strike of the defence filed, if any, for the alleged non-deposit of the rent, which is the subject matter of the revision impugning liability, no doubt, subject to condition of deposit of the amount of arrears as determined by the impugned order of the lower Court to what is due as on date by six (6) weeks from today. However, the revision respondent-plaintiff not entitled to withdraw the same pending disposal of the revision petition.

For hearing the revision petition, post on 03.02.2017.”

9. By the said interim order, the trial Court was directed not to take up the application for striking off the defence of the defendant for hearing and disposal. However, the defendant was directed to deposit arrears as determined in the order impugned.

10. Having regard to the facts and submissions and the further fact that the jural relationship is not admitted and the oral understanding, which the defendant pleaded, requires examination in detail after full-fledged trial, this Court is of the considered view that there are no tenable contentions; the revision is devoid of merit; and the same is liable to be dismissed confirming the orders of the Court below. However, to protect the interest of the defendant, this Court is of the considered view that a reasonable time can be granted for depositing the arrears as per the orders impugned in this revision.

11. In the result, the Civil Revision Petition is dismissed confirming the orders of the trial court, which are impugned in this revision. However, the defendant is granted four weeks time from the date of receipt of a copy of this order to deposit the balance of arrears of rent as per the orders impugned in this revision. It is made clear that on the

defendant making the deposit as directed in this order, the trial Court shall close the application filed by the plaintiff for striking off the defence of the defendant. However, on failure of the defendant to comply with the direction in this order, the trial court shall take up the said application for disposal on merits and in accordance with the procedure established by law. Since the jural relationship is admitted, the plaintiff is permitted to withdraw the amounts so deposited by the defendant and also the amounts that the defendant may deposit in future without furnishing any security by following the procedure established by law, however, without prejudice to the rights and contentions of both the parties in the suit.

Pending miscellaneous petitions, if any, shall stand closed.
There shall be no order as to costs.

August 17, 2017
Lmv

JUSTICE M.SEETHARAMA MURTI

