

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.2767 OF 2017

ORDER:

This civil revision petition, under Article 227 of the Constitution of India, is filed challenging the order dated 17.04.2016 in I.A. No.71 of 2017 in R.A. No.34 of 2017 passed by the Additional Chief Judge, City Small Causes Court, Hyderabad, whereby the appellate court granted stay subject to deposit 70% of the fair rent fixed by the trial court on or before 16.06.2017.

The petitioner is in occupation of suit schedule premises described in the schedule in R.C. No.24 of 2015 filed under Section 4(1) of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 (for short 'the Act'), wherein the Rent Controller fixed the fair rent of the petition schedule premises @ Rs.6,300/- per month (Rs.42/- per sft.) from February, 2015 subject to future periodical enhancement at 16% for every three years computing from February, 2015. Challenging the same, the petitioner preferred an appeal under section 20(2) of the Act, before the Additional Chief Judge, City Small Causes Court, Hyderabad, wherein the petitioner also filed an interlocutory application to grant stay, but the appellate court by exercising its discretion passed the order directing the petitioner to deposit 70% of the fair rent fixed by the Rent Controller on or before 16.06.2017.

Now the said order was under challenge on various grounds mainly contending that the property is being used as go-downs and it is only in an extent of 80 sft. But the appellate court on erroneous appreciation of material on record based on the finding recorded by the Rent Controller about the expenditure and the rent payable for the premises based on the principles laid down in

various judgments and grant of stay by the appellate court under Section 20(2) of the Act is purely discretion and the language used in Section 20 (2) of the Act is clear that the authority may order stay of further proceedings in the matter pending disposal of the appeal. Hence, the appellate court passed the order under challenge by exercising its discretion keeping in view the language used under Section 20(2) of the Act.

Section 20(2) of the Act is identical to Rule 5 of Order XLI of CPC which deals with grant of stay during pendency of the appeal against the decrees passed by the civil court.

Even according to Rule 5 of Order XLI of CPC, the appellate court may for sufficient cause order stay of execution of stay of the decree. So, it is purely discretion of the court whether to grant stay of execution of decree or not. When the Rent Controller fixed fair rent at Rs.6,500/- considering the facts before it and the appellate court only directed to deposit 70% of the fair rent fixed by the trial court within the specified date by exercising its discretion, since there is possibility of sustaining irreparable injury in case the execution of the order is not stayed.

Hence, I find no ground warranting interference of this court with the order passed by the appellate court and the civil revision petition is devoid of merits and is liable to be dismissed.

In the result, the civil revision petition is dismissed. No costs.

Miscellaneous Petitions, if any, pending in the civil revision petition shall stand closed.

M.SATYANARAYANA MURTHY,J

Date:29.06.2017
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