

**THE HON'BLE SRI JUSTICE SANJAY KUMAR**

**CIVIL REVISION PETITION NO.4925 OF 2017**

**O R D E R**

This civil revision petition under Article 227 of the Constitution arises out of the order dated 21.08.2017 passed by the learned XIV Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar, in I.A.No.481 of 2017 in O.S.No.1135 of 2016. The petitioner is the defendant in the said suit which was filed for eviction, arrears of rent, past and future mesne profits, etc. The subject I.A. was filed by the respondent, the plaintiff in the suit, under Order 15-A CPC seeking deposit of arrears of rent to the tune of Rs.39,97,822/- for the period 01.11.2013 to 31.10.2016. By the order under revision, the trial Court directed the petitioner herein to make the said payment within 15 days from the date of the order.

Sri K.R.K.Gargeya, learned counsel for the petitioner/defendant, would submit that if some more time is granted, his client would make good the payment as he has already deposited a major part thereof.

However, Sri B.Chandrasen Reddy, learned counsel for the respondent/plaintiff, would inform this Court that after the passing of the order by the trial Court on 21.08.2017, his client filed a calculation memo before the trial Court indicating that apart from the arrears amount of Rs.39,97,822/-, the petitioner/defendant was liable to pay the rental for the month of August and also the balance due in terms of another order passed in the suit, aggregating to Rs.67,57,427/-.

It appears that this calculation memo was taken up for consideration by the trial Court on 04.09.2017 and the trial Court recorded as under:

‘Plaintiff and defendant present. Both counsel present. Plaintiff filed calculation memo. Defendant undertook to deposit entire arrears of rents by 11.9.2017. Call on 11.9.2017.’

It is therefore clear that neither the petitioner/defendant nor its learned counsel before the trial Court disputed the correctness of the arrears of rent claimed by the respondent/plaintiff by way of the calculation memo, including the sum of Rs.39,97,822/- due and payable as per the order under revision. That apart, it appears that the petitioner/ defendant then filed another I.A. under Section 151 CPC requesting the trial Court to reopen the suit and the I.A. was also dismissed. Given these developments after the passing of the order under revision, the plea of the learned counsel for grant of time to pay the balance amount due cannot be accepted.

Further, it is not open to the petitioner/defendant to approbate and reprobate. Once the calculation memo filed by the respondent/plaintiff, including the amount payable as per the order under revision, was accepted by the petitioner/defendant and its learned counsel before the trial Court and time was sought to make good the said payment, it is not open to the petitioner/ defendant to now challenge the correctness of such quantification in this revision.

The civil revision petition is devoid of merit and is accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

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**SANJAY KUMAR, J**

**8<sup>th</sup> DECEMBER, 2017**

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