

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION No.1271 of 2018

ORDER:

This civil revision petition under Article 227 of the Constitution arises out of the order dated 29.11.2017 passed by the learned I Additional Senior Civil Judge, Ranga Reddy District, in I.A.No.72 of 2016 in O.S.No.1192 of 2013. The said I.A. was filed by the plaintiff-landlady under Order XV-A Rule 1 CPC seeking a direction to the defendant-tenant to pay the sum of Rs.23,90,837.75 ps. towards arrears of admitted rentals and to continue to pay the rentals @ Rs.17,000/- per month from February, 2016 on or before the 5th of every succeeding calendar month till the disposal of the suit. By the order under revision, the trial Court allowed the I.A. in part directing the defendant-tenant to deposit arrears of rent @ Rs.17,000/- per month from February, 2016 till date within one month and to continue to pay Rs.17,000/- per month till the disposal of the suit. Aggrieved thereby, the defendant-tenant is before this Court.

Heard Sri Mohd.Vasi Ahmed, learned counsel for the petitioner-tenant, and Sri K.Jyothi Prasad, learned counsel on caveat for the respondent-landlady.

The respondent-landlady is the owner of the shop bearing No.4-61/9 on the ground floor of Rajadhani Theatre Complex at Gaddiannaram, Ranga Reddy District. She let out the same to the petitioner-tenant for a period of three years under unregistered Deed of Lease dated 30.07.2009. She filed O.S.No.1192 of 2013 seeking his eviction from the leased premises; arrears of rent of Rs.23,90,837.75 ps.; payment of monthly rental of Rs.17,592/- with 12% interest from the date of the suit till the date of realisation; damages @ Rs.25,000/- per month

from June, 2013 till delivery of possession, with 12% interest, for use and occupation of the leased premises; and for costs. She filed the subject I.A. therein under Order XV-A Rule 1 CPC for arrears of admitted rentals and payment of such rental every month till the disposal of the suit.

The petitioner-tenant contested the I.A. stating that he had obtained the leased premises from the respondent-landlady under the Deed of Lease dated 30.07.2009 on a monthly rent of Rs.13,500/-, which was enhanced from time to time and stood at Rs.15,750/-, as agreed between them. He further stated that at the time of execution of the Deed of Lease, the respondent-landlady collected Rs.1,51,000/- from him towards a security deposit and consented to automatic renewal of the lease. He claimed to be a lawful tenant in possession of the leased premises and asserted that his lease was still subsisting. He denied that he was due and liable to pay arrears of Rs.23,90,837.75 ps., from October, 2012 to January, 2016 and claimed that he had been regularly paying the rents in lumpsum to the respondent-landlady as per her convenience and dictates. He further claimed that he regularly and punctually paid rents till January, 2016 to the respondent-landlady but she had not issued receipts, in spite of the same. He stated that he was ready to pay the rents @ Rs.15,750/- from February, 2016.

It is on the strength of the aforestated pleadings that the trial Court passed the order under revision.

Sri Mohd.Vasi Ahmed, learned counsel, would contend that as the respondent-landlady is holding the deposit of Rs.1,51,000/-, the trial Court ought not to have accepted her claim that the petitioner-tenant should pay Rs.17,000/- per month till the disposal of the suit.

Per contra, Sri K.Jyothi Prasad, learned counsel, would point out that the Deed of Lease executed in July, 2009 was only for a period of three years and Clause 4 thereof provided for a 10% annual increase in the rental. He would therefore state that it is not open to the petitioner-tenant to continue to pay the rental applicable in the year 2011.

Perusal of the unregistered Deed of Lease dated 30.07.2009 indicates that the lease created thereunder was for a period of three years commencing from 01.08.2009. The petitioner-tenant offered to pay a sum of Rs.1,51,000/- towards earnest money-cum-deposit and a monthly rent of Rs.13,000/-, commencing from 01.08.2009. He also agreed that the rent should be increased in the month of August every year by 10% progressively. Clause 4 of the Deed of Lease states that the lease shall be for a period of three years only from 01.08.2009 to 31.07.2012, unless renewed with mutual consent and subject to the condition that the rent would be enhanced by 10% every year, rounding it off to the nearest higher hundred. Thereunder, increase in rentals was stipulated as follows:

From (Date)	Rent (Premises and Fixtures/Fittings)
01.08.2009	Rs.13,000/-
01.08.2010	Rs.14,300/-
01.08.2011	Rs.15,750/-

Significantly, Clause 10 of the Deed of Lease records that the petitioner-tenant paid a sum of Rs.1,21,000/- as an interest free security deposit-cum-earnest money by cash to the respondent-landlady. Though the figure Rs.1,51,000/- was overwritten by hand in page 2 of the Deed of Lease by striking out Rs.1,21,000/-, no such correction was made in Clause 10. Clause 12 stipulated that the respondent-landlady should return the security deposit amount of Rs.1,21,000/- at the time of handing over of the leased premises to her on the date of expiration of the Deed of Lease subject to deduction of any amounts due from the petitioner-

tenant in the form of arrears of rent, charges, subscription fees, damages, interest, etc.

The aforestated terms of the lease transaction between the parties demonstrates that the deposit amount, be it Rs.1,21,000/- or Rs.1,51,000/-, was to be refunded by the respondent-landlady at the time of handing over of possession of the leased premises to her upon expiration of the lease. The petitioner-tenant therefore cannot seek adjustment of the said deposit amount at this stage when he seeks to continue in possession of the said premises pending disposal of the suit.

It may also be noted that the petitioner-tenant himself admitted before the trial Court that he has not been paying rentals from February, 2016. He also expressed willingness to pay such rentals @ Rs.15,750/- per month. Clause 4 of the Deed of Lease demonstrates that the increase in the rental was to be by 10% every year. Giving effect to the annual increase, as agreed upon between the parties, would mean that the rental from 01.08.2012 would be Rs.17,325/- and from 01.08.2013, it would be Rs.19,050/-. The subject suit was instituted by the respondent-landlady in June, 2013. Perhaps, that is the reason why the trial Court went by the rental that would be applicable from August, 2012 and directed payment of rental at that rate from February, 2016 till date and continuous payment thereafter at the same rate pending disposal of the suit.

This Court finds no irregularity or illegality having been committed by the trial Court in determining the figure or in exercise of its discretion under Order XV-A CPC in directing the petitioner-tenant to pay such rentals during the pendency of the suit.

The civil revision petition is therefore devoid of merit and is accordingly dismissed.

However, as the time granted by the trial Court for making the deposit has already expired, the petitioner-tenant shall deposit the arrears of rentals @ Rs.17,000/- per month, from February, 2016 till date, to the credit of the suit on or before 16.03.2018. In the event the petitioner-tenant fails to do so, he shall forfeit his right of defence in the said suit.

Pending miscellaneous petitions, if any, shall also stand dismissed.

No order as to costs.

SANJAY KUMAR,J

Date:09.03.2018

GJ/PGS

