

HON'BLE SRI JUSTICE RAGHVENDRA SINGH CHAUHAN

CIVIL REVISION PETITION No.6356 OF 2018

ORDER:

Challenging the order, dated 24.09.2018, in I.A. No.1582 of 2017 in O.S. No.69 of 2017, passed by the learned III Additional Chief Judge, City Civil Court, Hyderabad, whereby the learned Judge has directed the respondent therein, and petitioner herein, to deposit the arrears of rent to the tune of Rs.58,75,000/- up to 31.08.2018, and to continue to deposit every month thereafter, and whereby the learned Judge has given fifteen days time to deposit the amount, failing which, his defence would be struck off, the petitioner has approached this Court.

2. The learned counsel for the petitioner submits that it is a dispute with regard to the amount of arrears owed by the petitioner herein to the respondent - plaintiff. According to the respondent, a total amount of Rs.58,75,000/- is owed. However, according to the petitioner, he has been depositing the rent amount, which is apparent from Exs.R-8, R-9, R-10, R-11, R-12, R-13, R-14, R-15 and R-16, although the respondent has denied about these receipts of payment.

3. Since there is a dispute about the amount owed between the parties, according to the learned counsel, the learned Judge is unjustified in directing payment of entire arrears of rent, and also in observing that in case the arrears of rent are not deposited within fifteen days, the petitioner's defence would be struck off.

4. The learned counsel for the respondent has been fair enough to concede that when there is a dispute with regard to the amount payable between the parties, the said issue should have been decided first by the learned trial Court. But the learned trial Court would not be justified in directing the petitioner to pay the entire arrears of rent amount. This Court, certainly, appreciates the intellectual honesty of the learned counsel for the respondent.

5. Therefore, the impugned order passed by the trial Court is set aside; the trial Court is directed to decide the issue with regard to the amount payable by the petitioner to the respondent on the basis of evidence led by both parties. Till the said issue is decided, obviously, the defence taken by the petitioner - respondent - defendant cannot be struck off. However, while the said issue is being decided, the petitioner shall continue to pay the monthly rent to the respondent on or before the 7th day of each month.

6. With the above observation, this Civil Revision Petition is hereby disposed of. However, in the circumstances of the case, there shall be no order as to costs.

Consequently, Miscellaneous Petitions, if any, pending in the present revision, stand closed.

RAGHVENDRA SINGH CHAUHAN, J

November 23, 2018.

Mgr