

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.2710 of 2017

O R D E R:

This Revision is filed challenging the order dt.01.06.2017 in I.A.No.708 of 2017 in A.S.No.128 of 2017 of the IX Additional Chief Judge, City Civil Court, Hyderabad.

2. Petitioner is the defendant in the suit O.S.No.1028 of 2009 on the file of the XVII Additional Senior Civil Judge, City Civil Court, Hyderabad.

3. Respondents 1 and 2 had filed the said suit against the petitioner and 3rd respondent for eviction of the petitioner and 3rd respondent, and for recovery of arrears of rent.

4. After contest, the said suit was decreed on 28.12.2016 and the petitioner and 3rd respondent were directed to restore peaceful vacant possession of the suit schedule property to respondents 1 and 2, and also directed to pay admitted rent @ Rs.25,000/- per month from February, 2009 till delivery of vacant possession. They were also directed to seek relief of future mesne profits under Order XX Rule 12 CPC and costs were also directed to be paid.

5. Challenging the same, petitioner filed A.S.No.128 of 2017 before the IX Additional Chief Judge, City Civil Court, Hyderabad.

6. In that appeal, he filed I.A.No.708 of 2018 seeking stay of execution of the decree passed in O.S.No.1028 of 2009.

7. After hearing both sides, the Appellate Court granted stay of execution of the decree of the trial Court on condition of the petitioner depositing rents @ Rs.5,000/- per month from March, 2009 till 01.06.2017 on or before 15.06.2017 apart from giving security of Rs.2,00,000/- before 15.06.2017.

8. Assailing the same, this Revision was filed by the petitioner.

9. On 21.06.2017 this Court granted suspension of the order dt.01.06.2017 passed in I.A.No.708 of 2017 to the extent of furnishing Rs.2,00,000/- security on or before 15.06.2017 for a period of four (04) weeks. However, there was no suspension as regards deposit of rents @ Rs.5,000/- per month by the petitioner.

10. It is the contention of the respondents 1 and 2 that the petitioner failed to deposit rents @ Rs.5,000/- per month

from March, 2009 till date. He also contended that condition imposed by the Court below to give security is proper because the trial Court had fixed quantum of rent @ Rs.25,000/- per month and if ultimately the respondent succeeds in the appeal and when there is no security for the respondent, the petitioner can simply walk out without paying anything.

11. I find substance in the contention of the counsel for the respondent because in the judgment of the trial Court it is found that admitted rent is Rs.25,000/-. Without security of Rs.2,00,000/-, which the lower Appellate Court had imposed on the petitioner, there is absolutely no guarantee that petitioner would pay anything to the respondent in the event the appeal is dismissed. There is also no valid reason why the petitioner did not deposit even the rent @ Rs.5,000/- per month from March, 2009.

12. Therefore, I do not find any error of jurisdiction in the order passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India.

13. Accordingly, this Civil Revision Petition fails and it is dismissed with costs of Rs.2,000/- to be paid by the petitioner to respondents 1 and 2.

14. Consequently, miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

10th April, 2019.

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