

THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

CIVIL REVISION PETITION NO.456 OF 2018

ORDER:

This Revision is filed under Article 227 of the Constitution of India challenging the order dated 12.10.2017 in I.A. No.954 of 2016 in O.S. No.1071 of 2016 of the V Senior Civil Judge, City Civil Court, Hyderabad.

The petitioner herein is the plaintiff in the suit and he filed the suit against the respondent for eviction from the suit schedule property.

According to him, the respondent originally owned the suit schedule property, but he entered into an agreement of sale-cum-GPA dated 11.08.2014 with the respondent for purchase of the same for Rs.20,00,000/- and later also obtained a sale deed executed on 25.04.2015. He contended that the respondent promised the petitioner that he would vacate the suit schedule property within fifteen days, but did not do so; that the petitioner allowed the respondent to stay in the suit schedule property as a tenant on a monthly rent of Rs.30,000/- per month, but the respondent has not vacated the suit schedule premises, though a legal notice dated 13.12.2015 was got issued to him. He also stated that the respondent filed O.S. No.3238 of 2015 before the X Junior Civil Judge, City Civil Court, Hyderabad for perpetual injunction and also obtained temporary injunction therein. He alleged that the respondent is not paying the rent and has also not vacated the premises. Therefore, he should be evicted from the suit schedule property.

Pending suit, the petitioner filed I.A. No.954 of 2016 invoking the Order 15A CPC and seeking a direction by the court below to the respondent to pay arrears of rent from July, 2015 till September, 2016 at Rs.30,000/- per month, reiterating the contents of the plaint.

The respondent filed a counter-affidavit opposing the said application and contending that he is the absolute owner of the suit schedule property and when he approached the petitioner for hand loan of Rs.20,00,000/-, the petitioner induced him to execute the agreement-cum-GPA instead of the mortgage deed and later the petitioner created a fraudulent sale deed dated 25.04.2015. He contended that he is in possession of the suit schedule property as absolute owner. He denied that the petitioner had allowed the respondent to stay in his suit schedule premises as a tenant on a monthly rent basis or that the monthly rental was Rs.30,000/- per month.

By order dated 12.10.2017, the court below dismissed the said application stating that there is a serious dispute about the jural relationship of landlord and tenant between the petitioner and the respondent and so it was not possible to direct the respondent to pay arrears of rent as claimed by the petitioner. It however left open the question of claim of arrears in the suit.

Assailing the same, this Revision is filed.

Counsel for the petitioner contended that the said order is vitiated by error of jurisdiction and that there is a relationship of landlord and tenant between the petitioner and the respondent,

and the denial of the relationship between the petitioner and the respondent is not valid.

In **M/s. Jayabharat Automobiles v. Dr. V.S.V. Ramesh¹**, this court has held that when there is a dispute about the existence of relationship of landlord and tenant between the parties, the Order 15A CPC cannot be invoked.

Therefore, the court below cannot be said to have committed any error of jurisdiction in refusing to grant relief to the petitioner in I.A. No.954 of 2016. Any observations made in the order passed by the court below or by this Court shall not influence the court below in deciding the suit. The Revision is accordingly dismissed. No costs.

Miscellaneous petitions, pending, if any shall stand closed.
No costs.

M.S. RAMACHANDRA RAO, J

Date: 01.07.2019

MRKR

¹ 2013 (5) ALD 120