

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

C.R.P. No.605 of 2019

O R D E R:

This Revision is filed under Article 227 of Constitution of India challenging the order dt. 18.02.2019 in I.A.No.214 of 2019 in A.S.No.3 of 2019 of XV Additional Metropolitan Sessions Judge-cum-II Additional Family Judge, Ranga Reddy District at Kukatpally.

2. Petitioner is the defendant in the suit O.S.No.144 of 2012.

3. Respondent filed the said suit against the petitioner for eviction of petitioner from the suit schedule premises and seeking Rs.96,250/- towards rental arrears till 10.07.2012 and payment of future rent at Rs.13,500/- per month till eviction.

4. Prior to the suit, legal notice was issued on 01.05.2012 by the respondent to petitioner under Section 106 of Transfer of Property Act, 1882 (for short 'the Act') and the same was received on 04.05.2012 by the petitioner.

5. Written statement was filed opposing the suit claim and taking the plea that neither the respondent have bonafide requirement nor the petitioner had committed any willful default in payment of rents.

6. By judgment and decree dated 30.11.2018, the Court below decreed the suit. It observed that petitioner is tenant of the respondent and tenancy was terminated by Ex.A1 legal notice and the same was received by the respondent and having received Ex.A.1, he has to vacate the property.

7. Assailing the same, petitioner filed A.S.No.3 of 2019 before the lower appellate Court. In the said appeal, he also sought stay of execution of decree and judgment of the trial Court.

8. By order dt. 18.02.2019, the Court below held that the tenancy is admitted and the petitioner has received quit notice under Section 106 of the Act and he is liable to vacate the suit schedule property and so stay cannot be granted in respect of eviction of the petitioner from the suit schedule property. However, as regards other reliefs granted by the trial court, the lower appellate Court, held that stay of the execution of the other portion of the decree can be granted till the disposal of the appeal provided the petitioner pays the admitted rent of Rs.7,500/- from the date of decree of trial Court till he vacates the premises.

9. Challenging the same, this Civil Revision Petition is filed.

10. Counsel for the petitioner submits that the Court below ought to have stayed the petitioner's eviction from the suit

schedule property since that is the relief claimed in the suit. He also contended that no valid reasons had been given by the appellate Court in refusing the stay of eviction of the petitioner.

11. A reading of the order passed by the Court below indicates that the Court below had not only perused the judgment of the trial Court, but also the evidence of the petitioner as D.W.1 before the trial Court as certified copy is made available to it came to the conclusion that the ownership of the property by respondent is admitted by the petitioner; the relationship of the land lord and the tenant is also admitted by the petitioner; and quit notice was issued giving 15 days notice to the petitioner by the respondents, which was received by the petitioner. Therefore, it held that stay of eviction of petitioner from suit premises cannot be granted.

12. In my considered opinion, the Court below had correctly taken into account the prima facie case and balance of convenience in the matter and had come to the said conclusion and the said order does not warrant any interference by this Court in exercise of its discretionary jurisdiction under Article 227 of Constitution of India.

13. Accordingly, Civil Revision Petition fails and is dismissed. No costs.

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

M.S.RAMACHANDRA RAO, J

02.04.2019

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