

HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

CIVIL REVISION PETITION No.798 of 2019

ORDER :

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the docket order dt.08.02.2019 in I.A.No.1346 of 2018 in I.A.No.75 of 2017 in O.S.No.75 of 2017 passed by the I Junior Civil Judge, City Civil Court, Secunderabad.

Petitioner herein is the defendant in the suit filed by the respondent for recovery of possession, arrears of rent, future mesne profits etc.

Pending the suit, the respondent filed I.A.No.75 of 2017 in O.S.No.75 of 2017 invoking Order 15-A of C.P.C. for a direction to the petitioner to pay or deposit accumulated arrears of rents of Rs.52,000/- from October, 2016 to January, 2017 and continue to deposit the agreed rent @ Rs.13,000/- per month till disposal of the suit.

After contest, the said application was allowed on 24.01.2018 and the petitioner was directed to pay the admitted rents determined as Rs.10,710/- per month in the account of the respondent till disposal of the suit and it was made clear that if she fails to deposit the rents, her defence would be struck off.

Alleging that the petitioner did not deposit three months rent amounting to Rs.32,130/- and committed default in complying with the above order dt.24.01.2018, the respondent filed I.A.No.1346 of 2018 in I.A.No.75 of 2017 in O.S.No.75 of 2017 invoking sub-section (2) of Order 15-A of C.P.C.

The petitioner filed a Memo on 18.02.2019 stating that she is paying remaining balance amount on that day in compliance with the order passed in I.A.No.75 of 2017, but the Court below held that once the amount is not paid as per the order in I.A.No.75 of 2017, the defence has to be struck off.

Assailing the same, this Civil Revision Petition is filed.

Learned counsel for the petitioner contended that when the petitioner is ready to deposit the balance amount, the Court below should have extended the time to make the deposit pursuant to its order passed under Order 15-A (1) of C.P.C. and thus grave injustice has been done to the petitioner on account of action of the Court below.

It is important to note that earlier, once the petitioner's defence had been struck off pursuant to order passed in I.A.No.281 of 2018, but she was again given an opportunity to contest the suit by the Court below in I.A.No.469 of 2018, as recorded in the order by the Court below.

On 06.02.2019 the petitioner paid only part of the amount and there still continued to be a short fall and the order dt.24.01.2018 in I.A.No.75 of 2017 was not complied with. Out of Rs.2,78,460/- payable from October, 2016, petitioner had paid Rs.2,46,330/- only and there is a short fall of Rs.32,130/- (i.e.) 3 months rent by 19.11.2018. Only on 08.02.2019, the date I.A.No.1346 of 2018 was filed, petitioner paid this balance. If there is non-compliance with the order passed under sub-section (1) of Order 15-A of C.P.C., the Court below is empowered to strike off the defence.

Therefore, no exception can be taken to the impugned order passed by the Court below, particularly when earlier the petitioner's defence was struck off, but she was given an opportunity to contest the suit and even thereafter, she did not comply with the order passed by the Court below in I.A.No.75 of 2017.

Therefore, I do not find any merit in this Civil Revision Petition and it is accordingly dismissed. No order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

03.04.2019.

Msr

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