

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.901 OF 2019

ORDER:

This revision, under Article 227 of the Constitution of India, is filed by the petitioner/defendant No.3 aggrieved by the order dated 09.08.2018 passed in I.A.No.385 of 2017 in O.S.No.53 of 2012 by the XIX Additional Senior Civil Judge, City Civil court, Secunderabad.

2. Heard the learned counsel for the revision petitioner and perused the record.

3. *Vide* impugned order dated 09.08.2018, the Court below granted interim direction against the revision petitioner/defendant No.3 and respondent Nos.2 and 3 herein/defendant Nos.1 and 2 to pay admitted rent @ Rs.5,060/- per month from February, 2009 onwards till July, 2018. Further, the 1st respondent herein/plaintiff was given liberty to prove the disputed rent during trial of the subject suit. In the event of failure on the part of the revision petitioner to pay the rent as ordered, the respondent/plaintiff was given liberty to take steps for striking off the defence set up by the revision petitioner. The Court below also directed to pay the future monthly rents from August, 2018 onwards until further orders.

4. Learned counsel for the revision petitioner would contend that though the rent was paid to the 1st respondent/plaintiff, no receipt was obtained. The impugned order passed by the Court below is erroneous. Further, the Court below ought not have allowed the 1st respondent/plaintiff to take necessary steps to strike off the defence of the revision petitioner in the event of failure in payment of rents as ordered.

5. As seen from the record, admittedly there are no receipts to demonstrate the payment of rent @ Rs.5,060/- per month. There are disputes with regard to enhancement of rent and other aspects of the subject suit. It is also pertinent to state that quit notice dated 09.09.2011 was issued to the revision petitioner terminating the tenancy by the end of September, 2011. It establishes that the respondent wanted to get back his rented premises from the revision petitioner. It was not materialised. The subject suit was filed for eviction and possession. Except the oral submission with regard to the payment of rents due amounting to Rs.5,76,840/- by the revision petitioner, there is no record to substantiate the same. The facts with regard to the existing rent and the payment of rents due are required to be decided in the suit. As there is a *prima facie* case in favour of the 1st respondent/plaintiff, the Court below justified in passing the impugned order. In the given circumstances, the Court below is justified in invoking the jurisdiction under Order XV-A of C.P.C. in favour of the 1st respondent/plaintiff. There is no infirmity or illegality in the impugned order. The revision petition is devoid of merit and is liable to be dismissed.

6. In the result, the Civil Revision Petition is dismissed.

The Miscellaneous Petitions, if any, pending shall stand closed.
No costs.

Date: 09.09.2019
ssp

Dr. SHAMEEM AKTHER, J