

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

CRP.No.s 1534, 1535 and 1596 of 2019

COMMON ORDER:

These three Revisions arise out of the same suit and between the same parties, and so they are being disposed of by this common order

2. It is not in dispute that the suit O.S.No.203 of 2018 on the file of the Senior Civil Judge, Ranga Reddy District at Medchal, was filed for eviction of the petitioner by the respondent, and in I.A.No.872 of 2018 filed under Order XV(a) of Civil Procedure Code, 1908, the trial Court had directed the petitioner to pay monthly rent of Rs.40,700/- from the date of filing of the suit till 04.01.2019 and to continue to pay the same till the vacant peaceful possession of the suit schedule property is handed over to the respondent.

3. In the said order, no time limit is fixed for making the said deposit and there is also no mention of any default clause, i.e. if the amount is not deposited by a particular date, the defence of the petitioner would be struck-off.

4. When the matter was listed on 19.02.2019, it appears that representation was made by the counsel for the respondent/plaintiff that petitioner did not comply with the order passed in I.A.No.872 of 2018.

5. Without bothering to verify from the petitioner, whether the said order had been complied or not, the Court below straightaway struck-off the defence of the petitioner on that date.

CRP.No.1596 of 2019

6. Challenging the order dt.19.02.2019, this Revision is filed.

7. Counsel for the petitioner contended that the order dt.19.02.2019 cannot be sustained not only because no time limit to comply with the said order has been mentioned in the order dt.04.01.2019 in I.A.No.872 of 2018, but the petitioner had also deposited Rs.2,84,900/- to the credit of the suit on 27.02.2019 itself. He contended that had opportunity been given to the petitioner, he would have brought this to the notice of the Court below and therefore the said order cannot be sustained.

8. Though counsel for the respondent sought to support the order passed by the Court below, a reading of the said order does not indicate that any opportunity was given to the petitioner to explain whether he complied with the order dt.04.01.2019 in I.A.No.872 of 2018 at all.

9. In any event, when no time has been fixed in the said order to make deposit as directed by the Court below and there is also no default clause mentioned in the said order, it is difficult to understand how the Court below can strike-off the defence as it did on 19.02.2019.

10. Therefore, the CRP.No.1596 of 2019 is allowed; and order dt.19.02.2019 in O.S.No.203 of 2018 is set aside.

CRP.No.1535 of 2019

11. This Revision is filed challenging the order dt.17.06.2019 in IA.No.290 of 2019 refusing to permit the petitioner to deposit the rental amount as per order dt.04.01.2019 in I.A.No.872 of 2018 by extending time enabling the petitioner to pay the rent.

12. In the said application, petitioner pleaded a financial crunch and inability to comply with the order.

13. The said application was filed on 27.02.2019, the date on which the petitioner claimed to have deposited Rs.2,84,900/- to the credit of the suit.

14. The said application has been opposed by the respondent and it was also dismissed on 17.06.2019 on the ground that the Court has no power beyond 15 days to extend time as per order XV(a)(2) of the CPC.

15. When the Court below in the order dt.04.01.2019 in I.A.No.872 of 20189 passed under Order XV(a)(1) CPC had not fixed any time limit to comply with the direction to deposit the rents, Order XV(a)(2) has no application. Therefore, the Court below erred in dismissing I.A.No.290 of 2019.

16. Accordingly, the CRP.No.1535 of 2019 is allowed; the order dt.17.06.2019 passed in I.A.No.290 of 2019 in I.A.No.872 of 2018

in O.S.No.203 of 2018 is set aside; and I.A.No.290 of 2019 is allowed granting two (02) weeks time from the date of receipt of a copy of this order to the petitioner to comply with the direction contained in the order dt.04.01.2019 in I.A.No.872 of 2018, and if the said order is not complied with by that date, the defence of the petitioner shall stand struck-off.

CRP.No.1534 of 2019

17. Petitioner had filed this Revision questioning the order dt.17.06.2019 passed by the Court below refusing to set aside the order dt.18.02.2019/19.02.2019 striking off the defence of the petitioner consequent to alleged non-compliance of the petitioner of the direction to deposit the arrears of rent and future rents pursuant to order dt.04.01.2019 in I.A.No.872 of 2018.

18. Since the order dt.19.02.2019 in O.S.No.203 of 2018 striking off the defence of the petitioner has been set aside in CRP.No.1596 of 2019 above, and the defence of the petitioner is restored before the Court below, no orders are required in this Revision.

19. Accordingly, CRP.No.1534 of 2019 is closed. However, the Court below shall expedite the disposal of the suit. No order as to costs.

20. Consequently, miscellaneous petitions pending if any in all the Revisions shall stand dismissed.

M.S. RAMACHANDRA RAO, J

22nd August, 2019.
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