

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.1632 of 2019

ORDER:

Heard the learned counsel for the petitioner and the learned counsel for the respondent.

2. This Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.16-04-2019 in I.A.No.738 of 2015 in O.S.No.49 of 2015 of the Principal Senior Civil Judge, Kothagudem, striking off the defence of the petitioner who is defendant in the said suit.

3. The respondent filed the said suit against the petitioner for the petitioner's eviction from the suit schedule property, for recovery of arrears of rent and future damages.

4. Along with the suit, respondent filed I.A.No.180 of 2015 praying the Court to direct the petitioner to deposit sum of Rs.1,20,000/- towards arrears of rent, and damages of Rs.1,70,000/- for the period from 31-10-2014 to 09-03-2015, and also monthly damages of Rs.40,000/- till disposal of the suit. Later the respondent withdrew the same.

5. Petitioner then filed I.A.No.794 of 2015 seeking permission to deposit rents of the suit schedule property @ Rs.6,000/- per month. On 21-04-2017, the said application was allowed and direction was given to the petitioner to deposit rents at Rs.6,000/- per month along with arrears.

6. After this order was passed, lodgment schedule was obtained by the petitioner on 19-09-2018 for making deposit of sum of Rs.2,46,000/- said to be arrears of rent for 41 months from May 2015 to September 2018 and they were deposited.

7. Thereafter also, the petitioner obtained lodgment schedule on 19-12-2018 to deposit three months rent from October 2018 to December 2018. On 09-04-2019, to deposit rents from January 2019 to April 2019, and on 19-06-2019 to deposit rents from May 2019 to June 2019 @ Rs.6,000/- per month and deposited them.

8. Alleging that the petitioner was not depositing rents regularly and seeking to have the defence of the petitioner to be struck off, I.A.No.738 of 2015 had earlier been filed by the respondent, which was disposed of on 21-04-2017 by the trial Court refusing to strike off the defence.

9. Challenging the same, respondent filed C.R.P.No.2516 of 2018 which was allowed on 24-08-2018 and the matter was remitted back to the trial Court to receive evidence from both parties with regard to the dispute of payment of arrears of rent and to pass orders as per Order XV Rule 5 CPC.

10. Thereafter, enquiry was conducted by the Court below and the impugned order has been passed striking off the defence of the petitioner. The trial Court noted that the petitioner did not deposit the admitted arrears of rent into Court from July 2014 to April 2015, and no reason is assigned why arrears of rent could not be deposited

during the continuation of the suit and so, the defence of the petitioner has to be struck off.

11. Assailing the same, this Revision Petition is filed.

12. Learned counsel for the petitioner contended that the order passed by the Court below cannot be sustained and that several attempts were made by the petitioner to pay the rents to the respondents but the respondents did not receive the rents.

13. Learned counsel for the respondent refuted the said contention and supported the order passed by the Court below.

14. According to the respondent, in the arrears of rent exist from 02-07-2014 to 30-10-2014 and the quantum of rent according to him, is Rs.30,000/- per month.

15. Be that as it may, petitioner himself secured an order in I.A.No.794 of 2015 on 21-04-2017 that he would deposit rents @ Rs.6,000/- per month to the credit of the suit along with the arrears.

16. Though this order was passed on 21-04-2017, petitioner only on 19-09-2018 sought to deposit arrears of rent from May 2015 to September 2018 @ Rs.6,000/- per month. No steps were taken by the petitioner to pay the arrears from 02-07-2014 till May 2015.

17. Also, no reason is assigned by the petitioner why he waited from 21-04-2017 till 19-09-2018 to deposit these arrears, and why he was not regularly depositing the monthly rents into Court as

directed in the order dt.21-04-2017 in I.A.No.794 of 2015 which he himself secured.

18. Under Order 15-A Rule 2 CPC, deposit is to be made by the petitioner within the time stipulated by the Court; and if not, he must seek extension of time which can be granted only for a period of not exceeding 15 days for the reasons recorded; and if not, defence is likely to be struck off.

19. In the absence of any valid explanation of the petitioner why he did not comply with the order dt.21-04-2017 in I.A.No.794 of 2015 in O.S.No.49 of 2015 within a reasonable time; and in the absence of any explanation from the petitioner as to why he did not pay the arrears of rent from 02-07-2014 to May 2015, the Court below did not commit any error of jurisdiction, in striking off his defence and in allowing I.A.No.738 of 2015.

20. Therefore, I do not find any merit in the Revision Petition. Accordingly, the Revision Petition is dismissed. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 30-07-2019
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