

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

Civil Revision Petition No.1725 of 2019

ORDER:-

This Revision is filed under Article 227 of the Constitution of India challenging Order dated 01.04.2019 in I.A.No.1153 of 2018 and I.A.No.1245 of 2018 in O.S.No.1283 of 2017 of the VIII-Additional Judge, Ranga Reddy District at L.B.Nagar.

2. Petitioner herein is defendant in the said suit which has been filed by the respondents against him for eviction and arrears of rent. It is the contention of the respondents that the respondents are owners of the suit schedule property; that they had let out the property to the petitioner in January, 2015 on a monthly rent of Rs.1,05,000/- per month; that petitioner started a hospital in the said premises from 01.04.2015 but he has not been paying rents from January, 2017 onwards.

3. Petitioner received summons in the suit and engaged an Advocate by name Mr.V.Sravan Rao to defend him. In spite of granting several adjournments, petitioner did not file written statement and he was set *ex parte* on 12.04.2018. Thereafter, respondents examined P.W.1 and marked Exs.A.1 to A.6 and on 13.06.2018, the Court below decreed the suit.

4. Pending the suit, respondents have filed I.A.No.924 of 2017 for deposit of admitted rents as per the rental agreement from the date of the suit; after contest by the petitioner, it was allowed on 29.01.2018; and the petitioner was directed to deposit admitted

rents within 15 days, failing which his defence would be struck off, but petitioner did not choose to deposit the amount.

5. On 26.10.2018, petitioner filed I.A.No.1153 of 2018 to condone the delay of 108 days in seeking to set aside the *ex parte* decree passed on 13.06.2018 and also I.A.No.1245 of 2018 to set aside the *ex parte* decree.

6. Respondents filed counter opposing both the applications.

7. The Court below took note of the fact that petitioner did not comply with the conditional order dt.29.01.2018 and also the fact that the petitioner did not pay any amount to the respondents towards rent after filing of the suit on 15.11.2017. It however took note of the illness of the petitioner and his admission in a hospital for treatment and accepted his plea that the earlier Counsel did not inform him about the proceedings in the suit. It also recorded that the petitioner came forward to comply with the conditions which may be imposed by the Court for permitting him to contest the suit on merits. It therefore allowed both the applications on condition that the petitioner deposits the admitted amount of rents for the schedule property before the Court for the period from November, 2017 to March, 2019 at the rate of Rs.1,26,000/- per month on or before 24.04.2019 and in default, these applications would stand dismissed. It observed that on such deposit by the petitioner, the respondents can withdraw the same.

8. Challenging the said order, this Revision is filed.

9. Counsel for the petitioner contends that the Court below had imposed onerous conditions while condoning the delay of 108 days

in filing the application to set aside the *ex parte* decree and also in setting aside the *ex parte* decree. He contended that the petitioner would have deposit Rs.21,42,000/- and such conditions ought not to have imposed by the Court below.

10. Counsel for the respondents refuted the said contentions and supported the order passed by the Court below.

11. Admittedly, petitioner did not comply with the conditional order passed in I.A.No.924 of 2017 by the trial Court pending suit to deposit the admitted rents as per the rental agreement from the date of the suit and which application had been allowed on 29.01.2018. Petitioner had also not paid any rents to the respondents from 15.11.2017, the date of filing of the suit till date.

12. When the petitioner himself had undertaken before the Court below that he would comply with any conditions imposed by the Court, if he is allowed to contest the suit on merits, he cannot now turn around in the Revision and plead that onerous condition has been imposed on him by the Court below with regard to payment of admitted rents from 15.11.2017 till date.

13. According to me, the petitioner's conduct is not at all *bona fide*, and he cannot expect to squat in the premises without paying any rents to the respondents/landlords, when indulgence was shown to him by the lower appellate Court to contest the matter on merits by paying rents.

14. I, therefore, do not find any error of jurisdiction in the order passed by the Court below warranting interference by this Court

with the impugned order under Article 227 of the Constitution of India.

15. Accordingly, the Revision fails and dismissed.

Consequently, miscellaneous petitions if any pending in the Civil Revision Petition shall stand dismissed.

M.S.Ramachandra Rao, J

2nd August, 2019

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