

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

CIVIL REVISION PETITION NO.5345 OF 2018

ORDER:

This Revision is filed under Article 227 of the Constitution of India challenging the order dt. 01.08.2018 in I.A. No.894 of 2018 in O.S. No.529 of 2013 of the X Additional Chief Judge, City Civil Court, Hyderabad.

The petitioner herein is the plaintiff in the suit which she filed against the respondents for eviction, for arrears of rent from 01.06.2010 till 15.06.2013 and for future mesne profits.

Written statement was filed by the respondents opposing the suit claim.

There is a dispute about the quantum of rent payable by the first respondent to the petitioner.

The petitioner filed certified copies of lease deeds pertaining to State Bank of Mysore and Dominos pizza which have been marked as Exs.A-4 and A-5 and she wanted to call the parties to the lease deed to prove the quantum of rent being paid by them.

So she filed I.A. No.894 of 2018 in O.S. No.529 of 2013 to summon one Sri S. Satyanarayan Reddy and the Manager, State Bank of Mysore (now State Bank of India), to give evidence with regard to the rents being paid and received.

Counter-affidavit was filed by the respondents opposing the same stating that Exs.A-4 and A-5 documents have nothing to do

with the suit schedule property and that the petitioner had not shown sufficient cause to summon the witnesses.

By order dated 01.08.2018, the court below dismissed the said application. It observed that the property covered under EXs.A-4 and A-5 belongs to the third parties and they are commercial properties in nature, that they pertain to 2015 and 2014 respectively, but not to the year 2008, and the enquiry in the suit is not in respect of ascertaining the quantum of the mesne profits. It observed that no useful purpose would be served by summoning the said persons to give evidence, since recitals in Exs.A-4 and A-5 are not binding on parties to the suit.

Challenging the same, this Revision is filed.

Heard the counsel for petitioner and counsel for respondents.

When the suit is still pending and when Exs.A-4 and A-5 have already been marked, it was not proper for the court below to express any opinion as to the relevancy of the said documents to the case of the petitioner while deciding I.A. No.894 2018. Even according to the court below, there is a dispute about the quantum of rent. Therefore, the petitioner cannot be denied an opportunity to adduce evidence about the quantum of rent in the locality where the suit schedule property is located, and the court can then consider the said evidence also when it decides the suit. It is not for the court below to prevent a party from leading evidence in support of his case.

Accordingly, the impugned order is set aside; CRP is allowed and I.A. No.894 of 2018 in O.S. No.529 of 2013 on the file of X

Additional Chief Judge, City Civil Court, Hyderabad is allowed. No costs.

Miscellaneous petitions, pending, if any shall stand closed.

M.S. RAMACHANDRA RAO, J

Date: 03.07.2019

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