

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition No.6303 of 2018

ORDER :

This Civil Revision Petition is filed challenging the Order dt.14.09.2018 passed in I.A.No.514 of 2018 in O.S.No.1889 of 2013 on the file of the VIII Additional Senior Civil Judge, Ranga Reddy District, at L.B. Nagar, Hyderabad.

2. The petitioner herein is defendant in the above suit.
3. The respondent filed the suit against petitioner for her eviction, for payment of arrears of rent and damages, apart from *mesne* profits.
4. Thereafter, the respondent filed I.A.No.1379 of 2013 under Order 15-A of Civil Procedure Code, 1908 praying the Court below to direct the petitioner to deposit arrears of rent and to deposit regular rents till the disposal of the main suit.
5. On 25.08.2014, the said application was allowed, and the petitioner was directed to pay arrears of rent of Rs.15,000/- from July, 2013 till August, 2014 after deducting Rs.62,500/- which was already deposited by petitioner; and there was a further direction to deposit Rs.15,000/- per month on or before 10th day of succeeding month from the month of September, 2014 which is payable in the month of October, 2014 into the Bank Account of the G.P.A. Holder of the respondent maintained in ING Vysya Bank Ltd., Chikkadpally Branch.

6. On 19.06.2018, the respondent filed I.A.No.514 of 2018 under Order 15-A(2) of Civil Procedure Code, 1908 to strike off the defence of petitioner alleging that there is non-compliance of the order dt.25.08.2014 in I.A.No.1379 of 2013. It was alleged that by the date of the said application, the petitioner had paid Rs.7,65,000/- towards monthly rents in the account of respondent; that arrears of rent of Rs.1,35,000/- were paid in the form of Demand Drafts in two installments; that the amount of rents deposited, when adjusted, would cover the rents up to December, 2017 only, and the petitioner is due rents for five (05) months; and that petitioner was paying rents in installments as per her will and wish, but not regularly and every month, as directed in the order passed by the Court.

7. No counter-affidavit was filed to this application by petitioner.

8. But, memo with a counter-foil dt.13.07.2018 was filed by petitioner through her counsel mentioning that the counter-foil indicates deposit of rents for five (05) months amounting to Rs.75,000/- on 13.07.2018.

9. After perusing the same, the Court below allowed I.A.No.514 of 2018 on 14.09.2018 observing that the order dt.25.08.2014 passed in I.A.No.1379 of 2013 requires deposit of Rs.15,000/- p.m. on or before 10th day of every succeeding month; and the memo filed by petitioner on 13.07.2018 itself supports the contention of respondent

that petitioner did not follow I.A.No.1379 of 2013; and therefore, the defence of petitioner is liable to be struck off.

10. Assailing the same, the present Civil Revision Petition is filed.

11. The counsel for petitioner contended that there are no arrears of rents as of date, and though petitioner had given counter-foils to the Trial Court Advocate, he did not file them before the Court below.

12. The counsel for respondent refuted the said contentions and pointed out that the time limit specified in the order dt.25.08.2014 passed in I.A.No.1379 of 2013 of deposit every month is not being complied with by petitioner.

13. Order 15-A states as under :

“(1) In any suit by a lessor for eviction of a lessee or for the recovery of rent and future and mensem profits from him, the defendant shall deposit such amount as the Court may direct on account of arrears up to the date of the order (within such time as the Court may fix) and thereunder continue to deposit in each succeeding month the rent or licence fee claimed in the suit as the Court may direct. The defendant shall continue to deposit such amount till the decision of the suit.

In the event of any default in making the deposit, as aforesaid, the Court may subject to the provisions of sub-rule (2) strike off the defence.

(2) Before passing an order for striking off the defence, the Court shall serve notice on the defendant or his advocate to show-cause as to why the defence should not be struck off, and the Court shall consider any such cause, if shown in order to decide as to whether the defendant should be relieved an order striking off the defence.

(3) *The amount deposited under this rule shall be paid to the plaintiff lessor or licensor or his advocate and the receipt of such amount shall not have the effect of prejudicing the claim of the plaintiff and it would not also be treated as a waiver of notice of termination.”*

14. A reading of the said provision indicates that in a suit by a landlord against a tenant for eviction with or without arrears of rent, the Court may direct a defendant to deposit such amount as it considers appropriate on account of arrears up to the date of the order within such time as the Court may fix and to continue to deposit each succeeding month the rent claimed in the suit; and the defendant shall unless otherwise directed, continue to deposit such amount till the decision of the suit. In the event of default in making the deposits, the Court may strike off the defence of defendant subject to the provisions of sub-Rule (2) which require the Court to serve notice on the defendant or his Advocate to show-cause why the defence should not be struck off.

15. In the instant case, when the respondent moved an application under Order 15-A(2), i.e., I.A.No.514 of 2018, the Court did comply with the issuance of ‘Notice’ to petitioner through her Advocate, but no counter was filed to the said I.A. Instead, a memo was filed on 13.07.2018 along with a counter-foil dt.13.07.2018 in proof of deposit of rent of five (05) months of Rs.75,000/- on the said date. This Memo itself would indicate that petitioner did not comply with the direction to deposit the sum of Rs.15,000/- per month for five (05)

consecutive months, and had deposited the entire five (05) months' rent in a lumpsum on 13.07.2018.

16. It is thus clear that there is a clear violation of the direction contained in the order dt.25.08.2014 passed in I.A.No.1379 of 2013 of the Court below to petitioner to deposit monthly rent on or before 10th day of succeeding month from September, 2014.

17. In this view of the matter, I do not see any error of jurisdiction in the order passed by the Court below warranting interference by this Court in exercise of its jurisdiction under Article 227 of the Constitution of India.

18. Accordingly, the Civil Revision Petition fails and it is dismissed. No order as to costs.

19. As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 06.03.2019

Ndr/*