

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.7238 of 2018

ORDER:

This Revision is filed assailing the order dt.25-10-2018 in I.A.No.193 of 2018 in O.S.No.1167 of 2016 of the XXI Junior Civil Judge, City Civil Court, Hyderabad.

2. Petitioner herein is defendant in the suit.
3. The respondent filed the suit against petitioner for eviction of petitioner and for recovery of possession of the plaint schedule property apart from mesne profits.
4. Pending the said suit, the respondent filed I.A.No.193 of 2018 invoking Order XV-A C.P.C. and sought a direction to the petitioner to deposit a sum of Rs.1,08,000/- towards accumulated rent from May, 2016 to August, 2018 and to further direct the petitioner to deposit monthly rent of Rs.4,000/- before the Court on or before 5th of every month and to strike-off the defence of the petitioner in the event he did not do so.
5. In the said I.A., it was contended that petitioner was tenant of the respondent and he had earlier filed O.S.No.2301 of 2014 before the XXII Junior Civil Judge, City Civil Court, Hyderabad for perpetual injunction; that respondent had filed I.A.No.89 of 2015 therein under Order XV-A C.P.C., which was allowed on 01-07-2015 directing the petitioner to deposit Rs.4,000/- p.m. from April, 2015; he

paid some amounts in the said Court but did not pay rents from May, 2016 to August, 2018 amounting to Rs.1,08,000/-; and therefore the above direction should be given to the petitioner.

6. Petitioner filed a counter disputing the quantum of rent and contending that the rent of the suit schedule property is only Rs.2,000/- p.m. and the Civil Court had no jurisdiction to entertain the suit. He contended that his tenancy started in 1990 on a monthly rent of Rs.250/- and was presently Rs.2,000/- p.m. only. It was contended that though there was an order in I.A.No.89 of 2015 on 01-07-2015 in O.S.No.2301 of 2014, the suit was decreed on 13-09-2017 and he had deposited Rs.88,000/- from May, 2015 to February, 2019. He also contended that the interim order passed in O.S.No.2301 of 2014 cannot be enforced in the present suit and that the said order merged in the final judgment in the suit.

7. By order dt.25-10-2018, the Court below allowed I.A.No.193 of 2018 and directed that pending adjudication of quantum of rent, the petitioner should deposit Rs.72,000/- towards arrears of rent at Rs.4,000/- p.m. from March, 2017 till August, 2018 for 18 months on or before 15-11-2018 and shall continue to deposit the future monthly rents thereafter; on such deposit, the respondent would be entitled to withdraw Rs.2,000/- p.m; and in default, the defence of the petitioner in the suit will be struck-off.

8. The Court below noted that according to respondent, the rent was Rs.4,000/- p.m. but according to petitioner it was only Rs.2,000/-.

But in I.A.No.89 of 2015 in O.S.No.2301 of 2014, when there was a direction to the petitioner to deposit Rs.4,000/- p.m. from April, 2015, the petitioner did not challenge the said order. It also noted that petitioner had complied with the said order only till February, 2017. Later the suit was decreed on 13-09-2017 without passing any orders on the quantum of rent.

9. Assailing the same, this Revision is filed.

10. Though learned counsel for petitioner sought to contend that the quantum of rent is disputed, the fact remains that in I.A.No.89 of 2015 in O.S.No.2301 of 2014, when he was directed to deposit Rs.4,000/- p.m., the petitioner had not challenged the same and had deposited the amounts at the said rate to the credit of the said suit till February, 2017 only. The Court below has also found that petitioner's plea that he deposited rents upto February, 2019 is false, and to balance the interests of both parties directed the petitioner to deposit rent at Rs.4,000/- p.m. from March, 2017 till August, 2018 on or before 15-11-2018 and permitted the respondent to withdraw at rate of only Rs.2,000/- p.m.

11. In my considered opinion, this is an equitable order and the petitioner cannot squat over the property as a tenant without having paid any amounts to respondent from March, 2017 till date. Since respondent has been permitted to withdraw only Rs.2,000/- p.m. out of the amounts to be deposited by petitioner, no prejudice is caused to

petitioner and in the event the suit is decreed, the amount deposited can be adjusted towards other claims made by respondent.

12. I therefore do not find any error of jurisdiction in the order passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India.

13. Accordingly, the Civil Revision Petition is dismissed. However, time to deposit the arrears of rent at Rs.4,000/- p.m. from March, 2017 till 28-02-2019 is extended for a period of one week from the date of receipt of a copy of this order and petitioner is directed to continue to deposit the future monthly rents at the same rate on or before 5th of every succeeding month without fail. In the event of failure to deposit the amount as directed above, the defence of the petitioner shall be struck-off. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 28-02-2019
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