

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**FRIDAY, THE TWENTY SECOND DAY OF JANUARY
TWO THOUSAND AND TWENTY ONE**

PRESENT

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION NO: 53 OF 2021

Petition under Article 227 of the Constitution of India, against the Judgment and Decree dated. 14/12/2020 in CMA No.60 of 2020 on the file of the Court of the XXVI Additional Chief Judge, City Civil Courts, Hyderabad.

Between:

Smt S. Jayanthi, W/o. S. Ravinder Rao, Aged about 71 years, Occ. Housewife,
R/o. H.No.6-4-481/13/A, Krishna Nagar Colony, Secunderabad-500 080.

...Petitioner/Appellant

AND

Dr. J. Sridhar Rao, S/o. Sri. J. Narsing Rao, Aged 48 years, Occ. Dental Doctor,
R/o. H.No.10-2-375, West Marredpally, Secunderabad.

...Respondent/Respondent

IA NO: 1 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to grant stay of operation of the Judgment and Decree dt.14/12/2020 in CMA No.60 of 2020 on the file of XXVI Additional Chief Judge, City Civil Courts, Hyderabad confirming the Order of interim Injunction dated 11/03/2020 made in I.A. No. 25 of 2020 in O.S. No. 228 of 2020 on the file of X Junior civil Judge, City Civil Court, Hyderabad.

Counsel for the Petitioner: SRI C. M. R. VELU

Counsel for the Respondents: NONE APPEARED

The Court made the following: ORDER

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.53 of 2021

ORDER:

This Civil Revision Petition is filed challenging the order dt.14-12-2020 in C.M.A.No.6 of 2020 of the XXVI Additional Chief Judge, City Civil Court at Hyderabad confirming the order dt.11-03-2020 in I.A.No.25 of 2020 in O.S.No.228 of 2020 of the X Junior Civil Judge, City Civil Court, Hyderabad.

2. Petitioner herein is defendant in the said suit, which was filed by respondent against her to restrain her from interfering or entering into the suit schedule property and evicting him without following due process of law.
3. Pending suit, the respondent filed I.A.No.25 of 2020 under Order 39 Rules 1 and 2 C.P.C. to restrain the petitioner from interfering with the peaceful possession and enjoyment of the suit schedule property till disposal of the suit.
4. After contest, on 11-03-2020, the trial Court made the interim injunction order absolute holding that there was jural relationship of landlord and tenant between petitioner and respondent, that respondent is in possession of the suit schedule property, and contention of the petitioner with regard to non-payment of rent etc. are matters which need to be gone into in the suit.

5. It observed that even the trespasser cannot be evicted without following the due process of law, and there is *prima facie case* in favour of respondent and balance of convenience is also in favour of respondent and if injunction is not granted, respondent would be put to irreparable loss.

6. Petitioner challenged it in C.M.A.No.60 of 2020 before the lower appellate Court.

7. The lower appellate Court also confirmed the said order after contest.

8. The lower appellate Court, further observed that as per Clause 19 of the lease deed between the parties, the petitioner had agreed to follow the remedy under 106 of the Transfer of Property Act, and suit was filed on 05-02-2020 when the lease was to end on 29-02-2020, and the petitioner cannot take the law into her own hands and evict the respondent.

9. Challenging the same, this Revision is filed.

10. Learned counsel for petitioner contended that petitioner is a Senior Citizen; that respondent had no right to continue in possession of the property beyond 29-02-2020 and it is unbelievable that one month prior to the said date, the respondent would have attempted to dispossess the petitioner with the help of unsocial elements.

11. I may point out that on 05-02-2020 itself the suit itself was filed before the expiry of lease on 29-02-2020 making allegation that petitioner had attempted to dispossess the respondent by using unsocial elements. This is a matter which requires enquiry in the suit. Once the lease period expired, petitioner cannot take the law into her own hands and evict the respondent without following due process of law, which is the principle on the basis of which both the Courts below have held in favour of respondent.

12. Therefore, I do not find 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.

13. Accordingly, the Civil Revision Petition fails and is dismissed.

14. However, since the petitioner is a Senior Citizen, the Court below shall endeavour to decide the suit as expeditiously as possible preferably within one year from the date of receipt of a copy of this order. No costs.

15. Consequently, miscellaneous petitions, pending if any, shall stand closed.

SD/-N.CHANDRA SEKHAR RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The XXVI Additional Chief Judge, City Civil Courts, Hyderabad.
 2. One CC to Sri C. M. R. Velu, Advocate [OPUC]
 3. Two CD Copies
- MMK

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HIGH COURT

DATED:22/01/2021

ORDER

CRP.No.53 of 2021



DISMISSING THE CIVIL REVISION PETITION

④
5/2/21
HCH