

HON'BLE SRI JUSTICE P. NAVEEN RAO
CIVIL REVISION PETITION No. 2100 of 2022

ORAL ORDER:

Heard learned counsel for petitioner.

2. In I A No. 231 of 2021 in O S No. 2116 of 2017 the trial Court on 22.9.2021 passed the following order:

“5. The petitioner herein contends that the respondents have failed to pay the rents from April, 2017, however the same is denied by the respondents herein in their counter and respondents contended that they have paid rents through demand draft for the month of March, 2017 and that from April 2017 to August, 2017 the respondents have paid rent through bankers cheque and thereafter paid rents to the petitioner in cash till December, 2018. However the respondents herein have not filed any documentary evidence to show that they have paid rents to the petitioner herein till the month of December, 2018. Except for the averments in the counter there is no other evidence on record to show that the rents were paid till the month of December, 2018 by the father of the respondents. Further there is no dispute with regard to the quantum of rent and both the petitioner and the respondents have agreed that the quantum of rent @ is Rs.6000/- per month. However there is no documentary evidence on record to show that the respondents have paid rent till the month of December, 2017 and in the absence of any such documentary evidence, this court is of the view that the respondents have not paid rents from April 2017 to till date. The court only looks into documentary evidence and not the averments made in the counter. 6. In view of the above discussion, this court is of the opinion that the respondents have failed to pay the rents from April 2017 to till date. The respondents are therefore directed to deposit the arrears of rent from April, 2017 to till date @ Rs.6000/- per month into the court within a period of 60 days from the date of the order and is also directed to pay future rent @ Rs.6,000/- per month on or before seventh of every month. In the result, the petition is allowed.”

3. Aggrieved by the above order, CRP 1799 of 2021 was filed. This Court by order dated 20.1.2022 affirmed the view taken by the trial Court and dismissed the revision. While dismissing the revision, with reference to depositing of Rs.1,95,000/- this Court held that it would always be open to petitioners therein to bring on record the documentary evidence before the trial Court relating to such deposit.

4. Plaintiff filed I A No. 135 of 2022 in I A No. 231 of 2021 in OS No. 2116 of 2017 under Order XV-A read with Section 151 of CPC praying to strike off the defense of the respondents therein.

5. It was the contention of the plaintiff that in spite of directions issued by this Court, no money was deposited.

6. According to petitioner, he was required to deposit Rs.1,95,000/- and said amount was already deposited with the land lord.

7. The trial Court having gone into this aspect found that as per the directions of the trial Court in I A No. 231 of 2021, petitioner was required to pay Rs.6000/- per month. For 54 months i.e., from April, 2017 to September 2021 at the rate of Rs.6000/- per month the total amount required to be deposited would be rupees three lakhs twenty four thousand and payment of Rs.1,95,000/- is not the due amount which was to be deposited by the respondents therein to petitioner therein. The trial Court further observed that in the absence of any documentary evidence, the Court is of the opinion that the respondents have failed to comply with the direction of the trial Court in I.A. No. 231 of 2021 dated 22.9.2021 and allowed the application granting the relief sought by the petitioner to strike off the defence of the respondents therein.

8. Having regard to the facts noticed above, this Court does not see any error in the view taken by the trial Court warranting interference. Accordingly, revision petition is dismissed. No costs. Miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE: 28.9.2022
TVK

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