

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CIVIL REVISION PETITION No.2824 of 2022

AND

CIVIL REVISION PETITION No.2825 of 2022

COMMON ORDER:

1. Challenging the order that was rendered by the Court of II Additional District & Sessions Judge, Sangareddy, in I.A.No.298 of 2022 in O.S.No.139 of 2022, dated 14.11.2022, Civil Revision Petition No.2824 of 2022 is filed.

2. Also assailing the order that was rendered by the same Court on the same day, however, in I.A.No.271 of 2022 in O.S.No.140 of 2022, Civil Revision Petition No.2825 of 2022 is filed.

3. While the respondents in both the revision petitions are one and the same, the applicants i.e., the revision petitioners are different. But, the revision petitioners in both the cases are represented by the same person. The respondents herein moved Interlocutory Applications in both the suits under Order XV-A of C.P.C. seeking the Court to direct the revision petitioners herein to pay arrears of rent along with interest. The Court, considering the pleas taken by both the parties, allowed both the applications and thereby directed the revision petitioners to pay arrears of rent and also to continue

to pay the monthly rent. Aggrieved by the same, the revision petitioners are before this Court.

4. Heard Sri Kishore Rai, learned Senior Counsel who argued on behalf of Ms.Divya Rain Sohni, learned counsel on record for the revision petitioners. Also heard Sri E.Phani Kumar, who is representing the respondents. Also gone through the contents of the counter affidavits filed.

5. Attacking the impugned orders which are under challenge in both the revision petitions, learned counsel for the petitioners contended that the property was taken on lease in both the cases through separate lease deeds. However, the property which is the subject matter in O.S.No.139 of 2022 was destroyed in whole in a fire accident that occurred on 05.07.2021. Likewise, the property which is the subject matter in O.S.No.140 of 2022 was destroyed though not wholly, but to a major portion in the same fire accident. But, without considering those aspects, the trial Court ordered the revision petitioners to pay arrears of rent and also to continue to pay the monthly rent. Learned counsel submits that so far as the property which is the subject matter in O.S.No.139 of 2022 was vacated long back

and so far as the property which is the subject matter in O.S.No.140 of 2022 is being used to the extent which is capable of being used, but not to the fullest extent. Learned counsel also submits that the revision petitioner, who is the defendant in O.S.No.139 of 2022, has intimated to the respondents that the property is not liable for possession and to put in use. Learned counsel also submits that as per Order XV-A, only admitted rents unpaid could be directed to be deposited, but not the disputed ones. In this regard, learned counsel referred to Section 108(e) of Transfer of Property Act. Learned counsel again states that the revision petitioner is enjoying only the portion of premises covered by two lease deeds after the fire accident. Learned counsel also submits that as there are triable issues which could be decided only after full-fledged trial, directing the petitioners to pay arrears of rent and to continue to pay the rent, is undesirable and thus, the impugned orders are liable to be set-aside.

6. Contradicting the said submission, learned counsel for the respondents submits that the petitioners are using the leased premises still. Learned counsel states that no notice,

whatsoever, was issued by the revision petitioners that they stopped using the premises. Learned counsel also states that the intention of the petitioners to vacate the property covered under the lease deeds was never informed to the respondents and even now, the petitioners are using the said premises and therefore, they are liable to pay rent.

7. Rule 1 of Order XV-A reads as follows:-

“(1) In a suit for recovery of possession, on termination of lease, or licence, with or without a prayer for recovery of arrears of rent, or licence fee, known with whatever description, the defendant, while filing his written statement, shall deposit the amount, representing the undisputed arrears, calculated upto that due into the Court and shall continue to deposit such amount, which becomes payable thereafter within one week from the date on which it becomes due, till the judgment is rendered in the suit.”

8. Rule 2 of Order XV-A reads as follows:-

“(2) Whether the defendant pleads in the written statement that no arrears of rent or licence fee exists, it shall be competent for the Court to pass an order in this regard, after affording opportunity to both the parties, and in case any amount is found due, the

defendant shall be under obligation to deposit the same, within the time stipulated by the Court and continue to deposit the amount which becomes payable thereafter, as provided under Rule 1:

Provided that the time stipulated for payment of amount, as aforesaid, may be extended by the Court for reasons to be [recorded] for a period not exceeding 15 days.

If the defendant commits default in making the deposits, as aforesaid, the Court shall strike off the defence.

On such deposit, it shall be competent for the plaintiff to withdraw the same.”

9. Thus, by the above provision, it is clear that after affording opportunity to both the parties and on hearing, in case if any amount is found due, the Court can direct the defendant to the suit to deposit the same within stipulated time and also direct the defendant to continue to deposit the amount which becomes payable thereof. Therefore, this Court is not inclined to appreciate the submission of the learned counsel for the revision petitioners that when the

defendant disputes payment of rent, the Court should not order to pay the same.

10. Likewise, though the learned counsel for the revision petitioners contends that most of the property was not put to use after the said property caught fire, learned counsel failed to state that any notice was issued to the respondents in that regard or intimated that they would not be paying rent after the fire accident as the property has become incapable of using either partially or fully.

11. When the impugned orders which are under challenge are gone through, this Court finds that learned Judge of the trial Court, having taken into consideration the factual aspects and the established principles of law to be applied, had come to a just conclusion. This Court does not find any grounds, more so justifiable grounds, to interfere with the reasoned orders passed. Therefore, the ultimate conclusion of this Court is that both the Civil Revision Petitions lacks merits and deserves dismissal.

12. Resultantly, both the Civil Revision Petitions are dismissed without costs.

13. Miscellaneous petitions, if any pending, shall stand closed.

Dr. JUSTICE CHILLAKUR SUMALATHA

Date: 15.02.2023
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