

APHC010406042025



IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)

[3206]

FRIDAY, THE TWENTY SECOND DAY OF AUGUST
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

CIVIL REVISION PETITION NO: 2017/2025

Between:

1.NAKUL CHANDRA BISWAL, S/O LATE SC BISWAL, HINDU, AGED
53 YEARS, R/O D.NO 23-5-6, MATTA VENKATAPPA STREET,
VISAKHAPATNAM.

...PETITIONER

AND

1.BADARU SRINIVASA RAO, S/O ESWARA RAO, HINDU, AGED 47
YEARS, R/O D.NO. 20-118-11, CHENGALRAOPETA,
VISAKHAPATNAM

2.MANCHIPALLI SATYANARAYANA, , S/O VEERAJU, HINDU, AGED
45 YEARS, R/O D.NO 22-45-12, KANCHARAVEEDHI,
VISAKHAPATNAM.

...RESPONDENT(S):

Petition under Article 227 of the Constitution of India,praying that in the
circumstances stated in the grounds filed herein,the High Court may be
pleased topleased to allow the revision while setting aside the Order dated
31.01.2025 in I.A. No. 353 of 2019 in O.S. No. 1086 of 2019 on the file of the
III Additional Civil Judge (Junior Division) at Visakhapatnam and pass

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated
in the affidavit filed in support of the petition, the High Court may be pleased
pleased to stay all further proceedings in O.S. No. 1086 of 2019 on the file of

the III Additional Civil Judge (Junior Division) at Visakhapatnam pending the Civil Revision Petition and pass

Counsel for the Petitioner:

1.CKR ASSOCIATES

Counsel for the Respondent(S):

1.ARRABOLU SAI NAVEEN

The Court made the following order:

The respondent herein had filed O.S.No.1086 of 2019, before the learned Principal Junior Judge, at Visakhapatnam for eviction of the petitioner from the suit schedule premises on the ground that the petitioner is a tenant of the respondent and that the petitioner had failed to pay rents. The respondent also moved I.A.No.353 of 2019, for deposit of arrears of rent and damages to an extent of Rs.12,45,000/-, on the ground that damages of Rs.30,000/- per month, for unauthorized occupation, should be paid by the petitioner from 15.12.2015 till the date of filing of a petition, i.e., 07.08.2019.

2. This application was allowed on 18.10.2023. Aggrieved by the same, the petitioner has approached this Court, by way of C.R.P.No.447 of 2024, contending that there were no arrears of rent payable by him and that the damages claimed by the respondent are exorbitant and not payable. A learned Single Judge of this Court, by an order dated 25.04.2024, had allowed the Civil Revision Petition partly. The learned Single Judge took the view that, while the finding that the petitioner was liable to pay arrears of rent and future rent need not be disturbed, the fixation of rent @ Rs.30,000/- per month requires to be gone into and set aside the same, with a direction to the Trial Court to conduct an enquiry and fix a reasonable amount as monthly rent for the schedule property. The learned Single Judge also directed the Trial Court to fix the arrears of rent and the future rent and directed the petitioner to deposit the same into the Court till the disposal of the suit.

3. The Trial Court, after consideration of the application, passed an award, dated 31.01.2025, fixing the provisional rent of Rs.20,000/- with a direction to the petitioner herein to pay Rs.21,10,000/- as arrears of rent from 16.04.2016 to 31.01.2025 and to continue to deposit the future rent @ Rs.20,000/- per month.

4. The petitioner, being aggrieved by this order, has approached this Court, by way of the present Civil Revision Petition.

5. Heard Sri S.V.S.S. Siva Ram, learned counsel representing M/s.CKR Associates, learned counsel for the petitioner and Sri P. Raja Sekhar, learned counsel appearing for Sri A. Sai Naveen, learned counsel for the respondent.

6. The learned counsel appearing for the petitioner would contend that the provisions of Order 15A would only require the petitioner to deposit the arrears of rent up to the date of filing of the suit. He would further submit that the prayer in the suit as well as the directions of the learned Single Judge, in the earlier round of litigation, required the petitioner to deposit rents only till the date of filing of the application and future rents were not payable.

7. The learned counsel for the petitioner would further contend that the observation of the Trial Court that, the defence of the petitioner would be struck off in the event of non-payment of arrears of rent, is beyond the scope of the prayer set out in the suit. The prayer in the application is for payment of

arrears of rent by the petitioner. The present observation can be said to be beyond the prayer sought in the petition. However, the fact remains that Order 15A itself stipulates that- “if the defence commits default in making deposit, as aforesaid, the Court shall strike off the defence”. In view of this provision, the observations of the Trial Court are only reiterations of the provisions of Order 15A. However, any striking off the defence of the petitioner would require a separate order.

8. The learned counsel appearing for the respondent, on the other hand, would contend that the application, filed under Order 151 of CPC, should be treated as an application filed under Rule 15A and the view of the learned Trial Judge, does not require any interference.

9. The application has been filed, ostensibly, under Section 151 of CPC. However, mere mention in the petition would not determine the nature of the petition or the provisions of law, which would be available for such an application.

10. Order 15A provides for two situations. In the first situation, the defendant, while filing his written statement, is required to deposit the undisputed arrears of rent up to the date on which the written statement is filed and the further amount as and when they become due. In the second situation, the Court would have to go into the fixation of rent where the defendant pleads, in the written statement, that no arrears of rent or default exist. Upon such determination, the defendant would be liable to deposit the

rent fixed by the Court within the time stipulated by the Court and to continue to deposit the rent which becomes payable thereafter.

11. In the present case, the dispute is not whether the petitioner can be directed to pay the arrears of rent up to the date of filing of the application, but whether the petitioner can be directed by the Trial Court, in the impugned order, to pay arrears beyond the date on which the application has been filed.

12. From the manner in which the application has been argued before the Trial Court, and the manner in which the Trial Court has dealt with the matter and the manner in which submissions have been made before this Court, it is clear that the application has been dealt with as an application under Rule 15A of CPC.

13. As the application is being treated as an application under Order 15A of CPC, the present case would fall in the second eventuality. This is because the petitioner disputes the quantum of rent and consequently, disputes the arears of rent payable. In view of the said denial, the Trial Court has fixed the rent payable. This fixation of rent is both in terms of Rule 2 or Order 15A of CPC as well as the directions of the learned Single Judge, dated 25.04.2024, in C.R.P.No.447 of 2024. The said Rule 2 also stipulates that the arrears of rent, calculated on the basis of the rent fixed by the Trial Court, would have to be paid within the time stipulated in the order of fixation of rent and subsequent rent would also have to be paid as and when such rent becomes due.

14. In the present case, the Trial Court fixed a lump sum amount of the arrears of rent due from 2015 to 2025. Though the order may not clearly signify the contours set out in Rule 2 Order 15A, the order cannot be faulted on the ground of violation of Order 15A. This is because, Rule 2 of Order 15A casts an obligation on the petitioner/deponent to not only clear the arrears of rent due till the date of fixation of rent but to clear all such arrears of rent, which have fallen due after the date of fixation of rent.

15. As the rent fixed by the Trial Court has definitely fallen due by the time the matter has come up before this Court, I do not find any reason to interfere with the said order.

16. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

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

R. RAGHUNANDAN RAO, J

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HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

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22.08.2025

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