

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

MONDAY, THE TWENTY SECOND DAY OF SEPTEMBER

TWO THOUSAND AND TWENTY FIVE

:PRESENT:

THE HONOURABLE SMT JUSTICE RENUKA YARA

IA No. 2 OF 2025

IN

SA NO: 216 OF 2025

IA No. 1 OF 2025

Between:

1. D. Swaroopa, W/o. D.Veeraiah
2. D. Veeraiah, S/O. D. Veeraiah

...Petitioner/Appellants/Defendants
(Appellants in SA 216 OF 2025
on the file of High Court)

AND

Srikanth Bung, S/o. Kishan Bung, Occ. Business R/o. H.No.6-3-596/63/8/2,
Venkataramana Colony, Somajiguda, Hyderabad.

...Respondent/Plaintiff
(Respondents in-do-)

Petition under Order XLI Rule 5 r/w Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant interim stay on operation of judgment and decree passed by Principal Senior Civil Judge, R.R District, L.B. Nagar, in O.S.No.561 of 2014 dt. 13-07-2021 and confirmed by VI Addl. District Judge, R.R District, Kukatpally by dismissing AS No.21 of 2021 dt. 21.02.2025, pending disposal of SA No.216 of 2025, on the file of the High Court.

IA No. 2 OF 2025

Between:

Srikanth Bung, S/o. Kishan Bung, Occ. Business R/o. H.No.6-3-596/63/8/2,
Venkataramana Colony, Somajiguda, Hyderabad.

...Petitioner/Respondent/Plaintiff
(Respondent in SA 216 OF 2025
on the file of High Court)

AND

1. D. Swaroopa, W/o. D.Veeraiah Occ. Household
 2. D. Veeraiah, S/o. D. Veeraiah Occ. Business
- Both are R/o.2-164/01, Sy.No. 58, Gopanpalli Village, Serilingampally
Mandal Ranga Reddy District

...Respondents
(Respondents in-do-)

Petition under Section 151 of C.P.C praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to vacate the interim orders passed in I.A.No.1 of 2025 in 216/2025 dated 01.05.2025 thereby dismissing the I.A.No.1 of 2025 in the interest of justice, pending disposal of SA No. 216 of 2025, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the order of the High Court dated 01.05.2025 made in IA No.1 of 2025 and upon hearing the arguments of SRI L HARISH Advocate for the Petitioner in IA No.1 of 2025 and Respondent in IA No.2 of 2025 and of SRI MURLINARAYNA BUNG, Advocate for the Respondents in IA No.1 of 2025 and Petitioners in IA No.2 of 2025, the Court made the following

ORDER

The Second Appeal is preferred against the concurrent findings in A.S.No.21 of 2021 by the learned VI Additional District Judge, Ranga Reddy District at Kukatpally vide judgment dated 21.02.2025, confirming the judgment passed by the Principal Senior Civil Judge, Ranga Reddy District at L.B.Nagar in O.S.No.561 of 2014, dated 13.07.2021.

The main suit was filed by the petitioner herein seeking eviction and payment of arrears of rent. The said suit was decreed in favour of petitioner directing the respondents to vacate and deliver vacant possession of suit schedule property and to pay arrears of rent. Said judgment of the Trial Court was confirmed by the First Appellate. Aggrieved by the same, the present Second Appeal is preferred raising certain substantial questions of law.

The Second Appeal has been admitted and stay was granted vide order dated 01.05.2025 in I.A.No.1 of 2025 on the operation of impugned judgment and decree dated 13.07.2021 passed in O.S.No.561 of 2014 as confirmed in First Appeal vide judgment dated 21.02.2025 in A.S.No.21 of 2021.

The present application is filed to vacate the interim order passed in I.A.No.1 of 2025, dated 01.05.2025.

Heard both sides.

Perused the affidavit and counter.

The case of the petitioner/respondent/landlord is that by misrepresentation of facts, the respondents/appellants/tenants obtained stay of execution of eviction judgment and decree just before the commencement of summer vacation. The particular grievance of the petitioner is that the respondents are enjoying possession over his property without paying rents as ordered by the Trial Court when the respondents are due to pay an amount of Rs.14,46,893/- towards arrears of rent from 2021 till the date of decree and an amount of arrears of rent of Rs.4,58,894/- during the present Second Appeal.

It is pleaded that an order was passed for payment of arrears of rent and the CRP preferred to set aside the said order was dismissed and then the defense of respondents was struck off. The striking of defense has become final and therefore, there are no grounds to raise in the Second Appeal much less substantial questions of law. As such, prayed to vacate the interim order passed in I.A.No.1 of 2025, dated 01.05.2025.

A perusal of the record shows that in a suit for eviction, the vacate petitioner herein produced registered Rental Deed dated 01.04.2013/Ex.A1, Rental receipts for the year 2013/Ex.A2, Office copy of legal notice dated 07.12.2013/Ex.A3, Original postal receipts/Ex.A4 and Original returned envelope/Ex.A5. As against this evidence, the respondents/appellants who have questioned certain AGPA through which the vacate petitioner purchased the property failed to produce oral and documentary evidence. In the absence of oral and documentary evidence on the part of the respondents, their defense cannot be taken into consideration and the learned Trial Court proceeded to consider the landlord-tenant jural relationship and ordered eviction coupled with a direction to pay arrears of rent. Since there is no evidence on the part of the respondents before the trial Court, the First Appellate Court confirmed the judgment and decree of the trial Court.

When certain questions of law are raised, the Second Appeal was admitted, however, in view of concurrent findings, this Court is of the considered opinion that the respondents cannot be permitted to enjoy possession over the property without payment of arrears of rent. On one hand, vacating the stay might defeat the very purpose of filing the Second Appeal when this Court has framed certain substantial questions of law. On the other hand, in view of concurrent findings, the respondents may not enjoy possession over the suit schedule property without payment of arrears of rent and monthly rent.

At this juncture, in the interest of justice and fair play, the order dated 01.05.2025 passed in I.A.No.1 of 2025 i.e. stay of operation of judgment and decree dated 13.07.2021 passed in O.S.No.561 of 2014 as confirmed in First Appeal vide judgment dated 21.02.2025 in A.S.No.21 of 2021, shall continue to be in force till disposal of the Second Appeal, subject to payment of 50% arrears of rent.

The learned counsel for vacate petitioner is directed to file calculation memo of arrears of rent to be paid and the respondent shall pay 50% of the said rents within one month of filing of calculation memo. If the respondents/appellants fail to pay the said 50% of the

arrears of rent as directed above, the stay granted on 01.05.2025 in I.A.No.1 of 2025, shall automatically stand vacated.

For filing calculation memo, list on 13.10.2025.

//TRUE COPY//

SD/-A.SRINIVASA REDDY
ASSISTANT REGISTRAR


SECTION OFFICER

To,

1. The Principal Senior Civil Judge, R.R. District, L.B.Nagar.
2. The VI Additional District Judge, R.R. District, Kukatpally.
3. One CC to SRI L.HARISH, Advocate [OPUC]
4. One CC to Sri Murlinarayana Bung, Advocate [OPUC]
5. One spare copy

HIGH COURT

RY,J

DATED:22/09/ 2025

ORDER

IA No.2 of 2025

In

SA.No.216 of 2025



DIRECTION