

THE HON'BLE SRI JUSTICE R. SUBHASH REDDY

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CIVIL REVISION PETITION No.4433 OF 2015

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ORDER:

This revision petition, under Article 227 of the Constitution of India, is filed by defendant No.3 in O.S.No.1111 of 2014 on the file of IX Additional Chief Judge, City Civil Court, Hyderabad, aggrieved by the order, dated 07.07.2015, passed in I.A.No.195 of 2015 in the said Suit.

Respondent No.1 filed the aforesaid Suit with the following reliefs:

“a) To declare the Plaintiff as owner in respect of the suit schedule property i.e., house with open plot with two rooms admeasuring 86.5 Sq.Yds. equivalent to 72.325 Sq.Mts., forming part of property bearing No.2-2-92/B and built up area 200 Sq.Fts.

b) To direct the Defendant to deliver the vacant possession of the suit schedule property to the Plaintiff.

c) To declare the Regd. Sale Deed bearing Doc.No.1167 of 2014 dated 07-04-2014 stands in the name of the Defendants as null and void.

d) To grant perpetual injunction thereby restraining the Defendants from undertaking any sort of construction over the suit schedule property.

e) Costs of the suit may be awarded.

f) Any other relief or reliefs may be awarded, as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

A copy of the plaint is placed on record. In the plaint, it is the specific case of respondent No.1 – plaintiff that respondent No.2 – defendant No.1 himself has created oral Hiba, and without any right or title over the suit schedule property, has executed a sale deed in favour of respondent No.3 - defendant No.2 vide Doc.No.1167 of 2014, dated 07.04.2014, with the help of petitioner. It is his further case that the petitioner has an evil eye over the suit schedule property. With such pleas, alleging interference, respondent No.1 filed the aforesaid suit. In the said Suit, petitioner has filed the present I.A. to reject the plaint against him on the ground that there is no allegation in the plaint against him, except the allegation that he assisted respondent No.2 in executing sale deed in favour of respondent No.3. The Court below, by impugned order, dated 07.07.2015, dismissed the I.A..

Heard learned counsel for the petitioner.

In this revision petition also, it is reiterated by the learned counsel for petitioner that there are no specific allegations against the petitioner. It is further submitted that in the absence of any cause of action against him, the Court below ought to have rejected the plaint, but it has erroneously dismissed his I.A..

In the plaint, it is pleaded that respondent No.2, without any authority of law, based on his alleged oral Hiba, has executed the document in question in favour of respondent No.3 with the assistance of petitioner and that the petitioner is having evil eye on the property in question. Whether respondent No.2 has played fraud or not is a matter of fact, which is to be established during trial as rightly held by the Court below. In that view of the matter, I do not find any merit in this revision petition, so as to interfere with the impugned order under Article 227 of the Constitution of India.

Accordingly, the revision petition is dismissed. Miscellaneous Petitions, if any, pending in this revision petition, shall stand closed. No costs.

R. SUBHASH REDDY, J

November 19, 2015

MD