

HON'BLE SRI JUSTICE R.SUBHASH REDDY

CIVIL REVISION PETITION No.2039 of 2015

ORDER :

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/defendant, aggrieved by the order dated 11.03.2015 in I.A.No.819 of 2014 in O.S.No.428 of 2013 passed by the XVII Additional Senior Civil Judge, City Civil Court, Hyderabad, dismissing the application filed by him under Order 26 Rule 9 r/w. Section 151 of C.P.C., seeking to appoint an Advocate Commissioner to note down the physical features and inspect the petition schedule property to verify and note down the leakages and also to take photographs.

2. The respondent/plaintiff filed the aforesaid suit against the petitioner/defendant for eviction and recovery of arrears of rent in respect of the suit schedule property. The suit is of the year 2013 and the trial has already been commenced. At that stage, the petitioner/defendant has filed the present application in I.A.No.819 of 2014 for appointment of an Advocate Commissioner to note down the physical features and inspect the petition schedule property to verify and note down the leakages and also to take photographs. After considering the material on record, the Court below has dismissed the said application through the impugned order dated 11.3.2015. Hence, the present civil revision petition.

3. It is contended by the learned counsel for petitioner/defendant that there is an allegation of erection of a Pan shop in the petition schedule premises and further though there are leakages to the roof causing damage to the furniture and fittings in the shop, no repairs are being effected by the respondent/plaintiff.

4. Having heard learned counsel for the petitioner/defendant, I have perused the impugned order and the material on record.

5. It is to be noticed that the suit itself is filed for eviction and for recovery of arrears of rent based on the termination notice issued under Section 106 of the Transfer of Property Act. When the main suit itself is for eviction and recovery of arrears, it is not necessary to enquire with regard to the physical features and the leakages caused to petition schedule property by appointing an Advocate Commissioner. In view of the reasons assigned by the Court below, I do not find any illegality in the impugned order, warranting interference by this Court under Article 227 of the Constitution of India.

6. For the aforesaid reasons, this civil revision petition is devoid of merits and is accordingly dismissed, at the admission stage. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH

REDDY

10.07.2015.

Msr

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