

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.4301 of 2011

ORDER :

This Revision is filed under Article 227 of the Constitution of India challenging the order dt.04.06.2011 in I.A.No.3113 of 2010 in O.S.No.252 of 2010 on the file of II Additional District Judge, Ranga Reddy District.

2. The petitioner herein is 2nd defendant in the above suit.

3. The respondent nos.1 and 2/plaintiffs filed the said suit against petitioner and 3rd respondent for a perpetual injunction restraining petitioner from selling or creating third party interest in respect of the suit schedule property without joining them (plaintiffs) in terms of an agreement of sale – cum – General Power of Attorney with possession dt.09.05.2007 and for costs.

4. The petitioner herein filed I.A.No.3113 of 2010 under Order VII Rule 11(d) C.P.C. to reject the plaint on the ground that the plaint is insufficiently valued, and the Court Fee paid is inadequate. It was pointed out that respondent nos.1 and 2 themselves have admitted that certain alienations had taken place, and that the suit is infructuous.

5. By order dt.04.06.2011, the Court below rejected the said application. It held that the Court Fee in a suit for

permanent injunction is to be paid on the notional value in the light of Section 26 (c) of the Andhra Pradesh Court Fee and Suit Valuation Act, 1956 and that it cannot be on the basis of the value of the property which is subject matter of the suit. Referring to the contention of petitioner that some property has already been sold to 3rd respondent, the Court below held that this is a matter for evidence and without adjudicating the validity of various documents, this cannot be decided, and this point can only be decided after the evidence is adduced.

6. Challenging the same, the present Revision is filed.

7. Heard Sri M. Laxman Rao, counsel for petitioner; and the counsel for respondent.

8. Although the counsel for petitioner sought to contend that the order passed by the Court below is not correct, the said contention cannot be accepted since I am of the opinion that the reasoning given by the Court below for rejecting I.A.No.3113 of 2010 is unexceptional and I fully concur with the said reasoning.

9. Therefore, I do not find any error or infirmity in the order passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India. Therefore, the Revision is dismissed. No order as to costs.

10. As a sequel, miscellaneous petitions pending, if any, in this Revision shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 28.10.2015

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