

HON'BLE SRI JUSTICE R. SUBHASH REDDY

CIVIL REVISION PETITION No.2324 of 2015

ORDER :

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioners/plaintiffs aggrieved by the order dated 02.06.2015 in I.A.SR.No.4392 of 2015 in O.S.No.93 of 2006, passed by the I Additional Chief Judge, City Civil Court, Secunderabad, rejecting the application filed by them under Order 26 Rule 9 r/w. Section 151 of C.P.C., seeking to pass orders to appoint Advocate-Commissioner to make local inspection and to note down the type of construction measurements of the flat covering the suit schedule property with the help of licenced Engineer.

2. The petitioners/plaintiffs have filed suit being O.S.No.93 of 2006 against the respondents/defendants for recovery of damages on the ground that they have constructed extra area and delivered possession of the flats to the respondents/defendants. After conducting the trial, when the case is posted for arguments of both sides, the petitioners/plaintiffs have filed I.A.SR.No.4392 of 2015 for appointment of Advocate-Commissioner. It is the specific case of the petitioners/plaintiffs that though the respondents/defendants are entitled only for 800 square feet each flat, they are in possession of more than 800 square feet and, as such, they are bound to pay for the

extra square feet constructed and delivered to them in view of their promise to pay such amount at the time of taking possession. After considering the material on record, the Court below dismissed the said application through the impugned order dated 2.6.2015. Hence, the present civil revision petition.

3. Heard learned counsel for the petitioners/plaintiffs and perused the impugned order and the material on record.

4. It is to be noticed that after completion of evidence, when the matter is coming up for arguments, the petitioners/plaintiffs have filed the present I.A.SR.No.4392 of 2015 in O.S.No.93 of 2006 seeking the aforesaid relief. Further, in order to show that they have constructed in extra area, the petitioners/plaintiffs have not placed any material on record, including the sanctioned plan. In the absence of any documentary evidence to the effect that the respondents/defendants are in possession of more than 800 square feet each flat, the petitioners/plaintiffs are not entitled for the relief of appointment of Advocate-Commissioner, at this stage.

5. In view of the reasons assigned by the Court below, as the matter is coming up for arguments, this Court does not find any merit in this revision, warranting interference under Article 227 of the Constitution of India.

6. Accordingly, this civil revision petition is 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
26.06.2015.
Msr

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