

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.3383 OF 2016

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed challenging the Order dated 04.03.2016 in I.A. No.70 of 2016 in O.S. No.887 of 2015 passed by the II Senior Civil Judge, City Civil Court, Hyderabad, whereby the learned Judge dismissed the petition filed under Rule 17 of Order VI of the Code of Civil Procedure, 1908 (for short, 'CPC') on the ground that the petitioner's title was disputed, and the trial court recorded a finding in the petition filed under Rule 1 and 2 of Order XXXIX of CPC that the petitioner is not entitled to injunction without declaration of title to the schedule property and the suit is not maintainable to that extent.

Except assigning such reason, no other reasons was assigned by the trial court, and the trial court totally ignored the fundamental principles for consideration of application filed under Rule 17 of order VI of CPC, dismissed the petition erroneously.

Therefore, the order passed by the trial court is set aside holding that the reason assigned by the trial court is not convincing and sufficient to dismiss the petition filed under Rule 17 of Order VI of CPC.

Therefore, in the circumstances, I find that it is a fit case to remand the matter to the trial court, directing the trial court to decide I.A. No.70 of 2016 considering the basic principles for ordering the interlocutory application filed under Rule 17 of Order VI of CPC, within 45 days from the date of receipt of this order.

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With the above direction, the civil revision petition is disposed of. No costs.

Miscellaneous petitions, if any, pending in the civil revision petition, shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 30.09.2016

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