

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.630 of 2016

ORDER:

The revision petitioner Nos.1 & 2 are the defendant Nos.1 & 2 out of 5 defendants of the suit. The suit O.S.No.86 of 2015 on the file of II Additional Junior Civil Judge, Ranga Reddy District at L.B. Nagar, is for declaration of so called elections conducted by 5th defendant for the Central Association for SVRS Brundavanam Apartments pursuant to the circular notice dated 01.03.2015 issued by the 1st defendant-Builder as illegal and without authority and consequential permanent injunction in favour of plaintiff and against the defendants and their men claiming in any manner restraining their interference with the existing rights, functions and possession of plaintiff's association in respect of Narayanadri Block of said SVRS Brundavanam Apartments, Saroornagar, Hyderabad; apart from declaring the formation of the so called new management for Central Association pursuant to the alleged election notification issued by defendant Nos.1 & 5 dated 01.03.2015 is without following due process of law including by framing of proper by laws acceptable to plaintiff association and of association of defendant Nos.3 and 4 and without providing proper representation to all blocks in the key post of management for union and un-bias control and to declare the plaintiff association is entitled to maintain the common amenities enjoyable exclusively for its members of Narayanadri block supra. It is pending suit, a temporary injunction application in I.A.No.115 of 2015 was filed, the Court having granted ad interim exparte injunction pending notice and after hearing both sides the trial Court dismissed the temporary injunction application mainly on the ground, however, not on sole ground of plaintiff could have been filed an application under Andhra Pradesh Societies Registration Act, 2001 and not a suit. It is impugning the same, CMA.No.66 of 2015 filed and pending disposal

of the CMA, I.A.No.913 of 2015 for temporary injunction sought and therein pending notice ad interim injunction granted only in respect of the prayer not to interfere with the existing rights and functions of the appellant association in respect of said Narayanadri block of SVRS Brundavanam Apartments. It is impugning the ad interim injunction pending CMA granted in I.A.No.913 of 2015, the present revision is maintained.

In fact as per Order 43 Rule 1 sub Rule (r) CPC, appeal is maintainable if at all and there could be no special exception made out for not availing the statutory remedy of appeal, apart from other remedies of filing application pursuant to the serving of ad interim exparte order of injunction either to vacate or modify under Order 39 Rule 4 or to file counter and contest to vacate. The revision without going into other merits, thereby itself is not maintainable for no exceptional case made out to invoke the jurisdiction under Article 227 of the Constitution of India, despite availability of statutory remedy for not a case of same is not efficacious alternative remedy.

Therefore, the revision is disposed of, however instead of driving the parties to file another appeal, by directing the lower Court to dispose of the C.M.A. within one month from the date of receipt of copy of this order, keeping the interim order in force in the meantime.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 08.08.2016
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