

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

CIVIL REVISION PETITION No.2889 OF 2016

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ORDER:

This revision, under Article 227 of the Constitution of India, is preferred against the order passed by the XXV Additional Chief Judge, City Civil Court Hyderabad in I.A. No.1931 of 2015 in O.S. No.496 of 2011 dated 01.12.2011. The said I.A. was filed by the respondent-plaintiff seeking permission of Court below to construct the damaged portion of the kitchen, WC bathroo pipeline and drainage pipeline in premises bearing No.16-3-802 (plaintiff's Schedule property). The suit in O.S. No.496 of 2011 was filed by the respondent-plaintiff seeking declaration of title with regards both A and B schedule properties. The respondent-plaintiffs sought delivery of possession only with respect to B schedule property contending that A schedule property was already in their possession. The petitioners-defendants did not dispute possession of the respondent-plaintiff over A schedule property. The application, in I.A. No.1931 of 2015, was filed to reconstruct the damaged portion with respect to A schedule property, and not B schedule property where respondents-plaintiffs seek delivery of possession.

Sri T.S. Praveen Kumar, Learned Counsel for the petitioner, would submit that the direction of the Court below does not specify that repairs were sought to be made to A schedule property alone. I find no merit in this submission. The application filed by the petitioner, in I.A. No.1931 of 2015, specifically refers to the re-construction of the damaged portion of the premises bearing No.16-3-802 measuring 276 square yards equivalent to 220 square metres which matches with the A schedule of the plaint. The submission that the respondent-plaintiffs were permitted to make repairs in the premises in B schedule property is therefore, not tenable.

Sri T.S. Praveen Kumar, Learned Counsel for the petitioner, would further contend that the respondents-plaintiffs are not residing in B schedule property and the said application has been filed only to drag on proceedings; and the endeavour of the respondents-plaintiffs is only to harass the petitioner herein.

does not stand to reason that any repairs, which the respondents-plaintiffs seek to make in the property in their possession, would cause hardship to petitioners who are, admittedly, in possession of the B schedule property and not "A" schedule property. The mere fact that the respondents were permitted to make construction does not prevent early hearing of the suit. Suffice it to make it clear that any reconstruction, which the respondents-plaintiffs shall undertake, shall only be with respect to A schedule property without causing any hindrance to the premises in B schedule property under occupation of the petitioner herein. As the suit relates to the year 2011, the Court below shall hear and decide the suit with utmost expedition. The CR shall be disposed of accordingly. The miscellaneous petitions pending, if any, shall stand dismissed. No costs.

RAMESH RANGANATHAN,J

Date: 24.06.2016

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