

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.2450 OF 2016

ORDER

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This Revision is filed under Article 227 of the Constitution of India challenging the docket order dated 09.05.2016 in IA.SR No.176 of 2016 in O.S.No.600 of 2015 on the file of Vacation Court (X Additional Chief Judge), City Civil Court, Hyderabad whereby the out of order in IA.SR.No.176 of 2016 was rejected on the ground that there was no urgency.

The petitioner filed the suit along with an application under Order XXXVIII Rule 5 CPC for attachment of immovable property of the respondents 1 and 2 and application under Rule 57 of CRP read with Section 151 C.P.C. to receive the petition on out of order basis since there is an urgency and to pass an appropriate order on the ground that the respondent is going to alienate the property to defeat the claim under the decree that may be passed against the respondent, in favour of the petitioner.

The petitioner filed a proforma affidavit filling the blanks stating that there is an urgency in the matter and requested to put up the petition as an out of order, but the same was rejected on the ground that no urgency is made out, except making an allegation that there is urgency. Nothing is brought to the notice of the Court to entertain the application on out of order basis.

Learned counsel for the petitioner drawn the attention of this Court to Rule 57 of CRP and according to it whenever it is intended to move an application as an urgent (out of order) application, the copy of the application served on the advocate or the party appearing in person shall contain an endorsement stating that the application is intended to be moved as an urgent application on the day specified in the endorsement.

There is nothing in the Rule on record on what circumstances, the

Court has to accept such petition and put it on out of order basis and it is for the petitioner to make out urgency in the out of order petition.

In fact the trial court passed an order in the petition under Order XXXVIII Rule 5 CPC and Section 151 of CPC on 20.08.2015 without issuing any direction for attachment of subject property, directed the respondents 1 and 2 to furnish security. Therefore, taking advantage of the order, the respondent is trying to alienate the property. However, the defect in the order is not under challenge in this revision petition but only challenged before this court is rejection of out of order. Since no urgency is made out by the petitioner, the rejection of out of order is in accordance with law and order cannot be interfered by this Court while exercising power under Article 227 of Constitution of India. However, liberty is given to move appropriate application before the trial Court for appropriate relief.

Accordingly, the revision is dismissed. No costs. As a sequel, miscellaneous petitions pending if any, shall stand closed.

M.SATYANARAYANA MURTHY,J

Date: 09.08.2016

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HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

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CIVIL REVISION PETITION No.1852 OF 2016

Date: 04.08.2016