

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.2225 of 2016

ORDER:

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This revision is filed under Article 227 of the Constitution of India, challenging the dismissal order passed by XXIV Additional Chief Judge, City Civil Courts, Hyderabad in I.A.No.109 of 2014 in O.S.No.993 of 2013, whereby the petition filed by the petitioners under Order VII Rule 11 of Civil Procedure Code (C.P.C.), to reject the plaint alleging that the first petitioner fraudulently executed registered gift settlement deed in his favour, document bearing No.2314 of 2009, dated 31.12.2009, in respect of suit schedule property and filed a suit for declaration to declare that the gift deed dated 31.12.2009 is fraudulent, null, void not binding on the plaintiff, to grant permanent injunction to restrain the defendants, their henchmen or any one claiming through or under them from interfering with the possession of the plaintiff in and over the suit schedule property i.e., H.No.7-2-132, R-Type, Ashok Colony, Sanathnagar, Hyderabad, admeasuring about 245 square yards by way of a perpetual injunction. It is the contention of the defendant that the plaintiff has no right to seek declaratory relief and at best, he is entitled to seek cancellation under Section 31 of the Specific Relief Act. Therefore, there is no cause of action for the suit and sought for rejection of the plaint on the sole ground.

Respondent resisted the petitioners raising several contentions and one of the contentions is that the petition is not maintainable under Order VII Rule 11 at this stage, besides raising other contentions, he prayed for dismissal of the revision petition.

The trial Court decided the petition after elaborate consideration of the law declared by various Courts, including this Court and

dismissed the petition as premature.

During hearing, learned counsel for the revision petitioners Sri Junaid Ali Qureshi, requested this Court to pass appropriate order leaving it open to the petitioners to raise such contentions during trail and direct the trial Court to decide the specific contention about entitlement of the plaintiff to claim such relief.

In view of the concession of the learned counsel for the petitioners, the Civil Revision Petition is dismissed while giving liberty to the revision petitioners to raise all these contentions during trail and on raising such contentions, the trial Court has to decide the issue regarding entitlement to claim any relief by the plaintiff. There shall be no order as to costs.

Miscellaneous Petitions pending, if any, shall also stand dismissed.

**JUSTICE M. SATYANARAYANA
MURTHY**

08.08.2016
vhb