

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO.2865 OF 2017

ORDER:

This petition, under Article 227 of the Constitution of India, is filed challenging the order, dated 10.03.2017 in I.A.No.100 of 2017 in O.S.No.108 of 2017 on the file of VII Junior Civil Judge, City Civil Court, Hyderabad in dismissing the application filed under Order VII Rule 11 CPC to reject the plaint on the ground that the suit is barred by Section 41 of the Specific Relief Act and Section 49 of the Registration Act.

The respondent filed suit for injunction simpliciter claiming possession of the property based on unregistered agreement of sale dated 31.10.2016 for Rs.24,20,000/-. But there is a bar under Section 41(h) of the Specific Relief Act, that the Court cannot grant perpetual injunction when equally efficacious remedy for enforcement of alleged agreement of sale by way of suit for specific performance is available under law. The other ground raised by the learned counsel for the petitioners is that the agreement of sale is inadmissible in evidence since it is a suit for mere injunction, but the admissibility of document has to be decided by the Court in appropriate application. The trial Court simply postponed the decision on those aspects as they are issues of facts and the finding is required to be recorded only after completion of trial. This approach is erroneous and it appears that the trial Court for the reasons best known to it, postponed the decision regarding Section 41(h) of Specific Relief Act and Section 49 read with Section 17(g) of the Registration Act. Thus, the order passed by the trial Court is bereft of any reason. Therefore, the order is liable

to be set aside at the stage of admission and remanded the matter to the trial Court for disposal in accordance with law considering the objections raised by the petitioners in the petition filed under Order VII Rule 11 CPC and counter filed by the respondent and deal with each and every objection raised by the parties and decide the application in accordance with law, within two months from the date of receipt of a copy of this order.

With the above direction, the Civil Revision Petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this petition shall stand closed.

JUNE 29, 2017
ssp

M. SATYANARAYANA MURTHY, J

