

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.975 OF 2017

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dated 20.12.2016 in I.A.No.263 of 2016 in O.S.No.1391 of 2013 on the file of the XIX Junior Civil Judge, City Civil Court at Hyderabad.

2. Heard the learned counsel for the petitioner.

3. A perusal of the record reveals that the first respondent is the owner of a building bearing No.17-1-211/3/1/2, consisting of ground, first and second floors, situated at Santosh Nagar, Hyderabad. The first respondent let out the ground floor of the building to the second respondent, and first and second floors to the petitioner. The first respondent herein filed O.S.No.904 of 2013 on the file of the Court of the VII Senior Civil Judge, Hyderabad, against the petitioner herein for eviction from the suit schedule property alleging that the petitioner herein committed default in payment of rent. The first respondent also filed O.S.No.1391 of 2013 on the file of the XIX Junior Civil Judge, City Civil Court at Hyderabad, against the second respondent for eviction from the suit schedule property alleging that she committed willful default in payment of rent. Pending suit, the petitioner filed I.A.No.263 of 2016 in O.S.No.1391 of 2013 under Order I Rule 10(2) read with Section 151 of C.P.C. to implead her as defendant No.2 in O.S.No.1391 of 2013. The first respondent herein filed a counter opposing the petition. The trial Court after having a thoughtful consideration to the material available on

record, arrived at a conclusion that the petition is not maintainable and dismissed the same. Feeling aggrieved by the same, the present revision is filed.

4. The predominant contention of the learned counsel for the petitioner is that the trial Court ought to have allowed the implead petition in order to avoid conflicting of judgments.

5. It is not in dispute that the first respondent herein filed O.S.No.1391 of 2013 against the second respondent herein and O.S.No.904 of 2013 against the petitioner herein. Both suits were filed by the first respondent against the petitioner and second respondent alleging that they have committed willful default in payment of rent. It is not the case of the petitioner that she is the tenant of the first respondent in respect of the first and second floors. It is also not the case of the petitioner that the second respondent is the tenant of the first respondent in respect of the ground floor. The petitioner did not file even a single scrap of paper to prove that the first respondent let out the premises to her and second respondent under the same lease deed. The suits were filed in the year 2013. If really the petitioner has any interest or semblance of interest in the first and second floors of the building bearing No.17-1-211/3/1/2, what prevented her to file similar type of application at the earliest point of time much less before filing of the written statement? Even as per the averments made in the affidavit, the petitioner is residing at Dubai. A perusal of the affidavit further reveals that the petitioner herein has given a General Power of Attorney to her mother to prosecute both the suits. In such circumstances, the question of impleading the petitioner does not arise. When the suits are coming up for trial,

for the reasons best known, the petitioner filed the present petition as if she has some interest in the subject matter of the suit. I have carefully scanned the affidavit filed by the petitioner. There is no averment in the affidavit that the petitioner has interest or semblance of interest in the subject matter of the suit or without her presence the matter cannot be adjudicated effectively. The material placed before the Court clinchingly establishes that the petitioner has nothing to do in the subject matter of the suit in O.S.No.1391 of 2013. It appears that the petitioner filed the present petition with an ulterior motive to drag on the proceedings. The petitioner has not satisfied the ingredients of Order 1 Rule 10 of C.P.C. The trial Court has considered the material available on record in right perspective and arrived at a conclusion that the petition is not maintainable either on facts or in law. The trial Court has assigned reasons much less valid reasons to its findings. I am fully endorsing the findings recorded by the trial Court. There is no illegality, irregularity or impropriety in the impugned order, which warrants interference of this Court while exercising the jurisdiction under Article 227 of the Constitution of India. Hence, the revision lacks merits and *bona fides*.

6. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

7. Consequently, Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 24.03.2017

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