

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No.5325 OF 2012

ORDER:

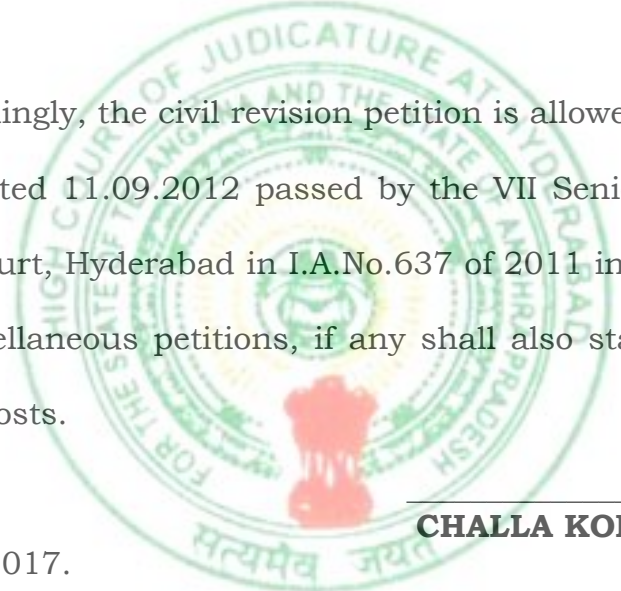
This civil revision petition is filed questioning the order dated 11.09.2012 passed by the VII Senior Civil Judge, City Civil Court, Hyderabad in I.A.No.637 of 2011 in O.S.No.934 of 2006, wherein and whereby the application filed by the petitioner-proposed defendant under Order I Rule 10 read with Section 151 CPC seeking to implead the petitioner as third defendant in the suit, was allowed.

The petitioner filed the above numbered suit seeking for a declaration of suit schedule property against the respondents for perpetual injunction in respect of the suit schedule property, and further consequential relief. Petitioner is also one of the writ petitioner to the proceedings in W.P.No.4417 of 2006 filed questioning the notice dated 3.3.2006 issued by the Hyderabad Municipal Corporation and the said writ petition was disposed of by an order dated 7.3.2006 giving liberty to the Municipal Authorities to take action in terms of the provisions of Section 636 of the Hyderabad Municipal Corporation Act, 1955 (for short, "the Act") after following the due procedure under Section 452 of the Act. Thereafter, the 1st respondent sought to implead himself as party defendant alleging that the petitioner plaintiff had made certain illegal constructions in the car parking area. It is a specific pleading of the petitioner-plaintiff that there were no constructions made by him at all and as a matter of fact he is in possession of

the already constructed area and in those circumstances, the limited relief that is being prayed in the suit against the Hyderabad Municipal Corporation has nothing to do with the allegations of the 1st respondent. In the light of the relief which the petitioner is seeking in the suit and particularly asserting that there are no illegal constructions made, it is for the petitioner-plaintiff to prove before the Court below with respect to the allegations that there being no unauthorized constructions.

In those circumstances, it cannot be said that the 1st respondent is proper and necessary party for deciding the lis in the suit.

Accordingly, the civil revision petition is allowed setting aside the order dated 11.09.2012 passed by the VII Senior Civil Judge, City Civil Court, Hyderabad in I.A.No.637 of 2011 in O.S.No.934 of 2006. Miscellaneous petitions, if any shall also stand closed. No order as to costs.



CHALLA KODANDA RAM,J

Date:17.08.2017.

Gk.

HON'BLE SRI JUSTICE CHALLA KODANDA RAM



CIVIL REVISION PETITION No.5325 OF 2012

Date:17.08.2017

Gk