

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No.5412 OF 2012

ORDER:

The application filed by the defendant, invoking Order VII Rule 11 (d) of Civil Procedure Code, seeking rejection of the plaint, is rejected by the learned IX Junior Civil Judge, City Civil Court at Hyderabad by an order dated 21.09.2012. Challenging the same, present Civil Revision Petition is filed.

2) Learned counsel for the petitioner Sri Abdul Muqeeth Qureshi submits that a specific plea was taken by the defendant-petitioner before the Court below that the subject property is a wakf property and there is a specific bar contained under Section 85 of the Wakf Act, 1995 to entertain any matter relating to the wakf property. The said contention of the revision petitioner was not considered properly by the Court below.

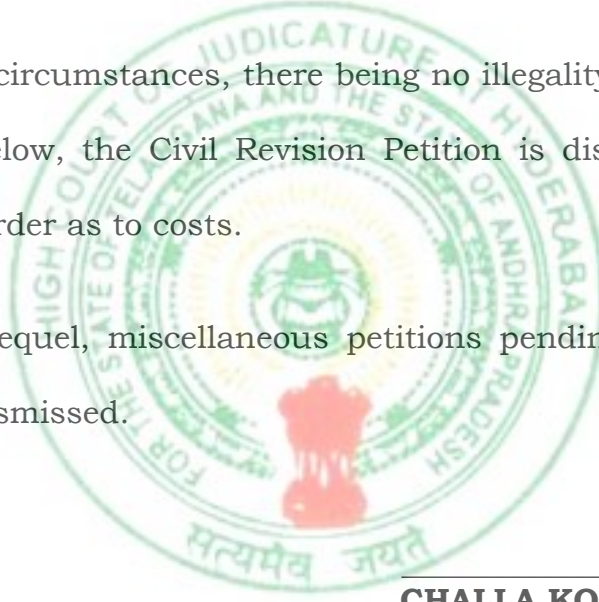
3) Heard the learned counsel for the petitioner and the learned counsel for the respondent.

4) It can be seen from the plaint, the plaintiff pleaded that the property bearing Municipal No.12-2-413, admeasuring 271 square yards, equivalent to 227.64 square meters, situated at Talagadda Karwan Sahu, Guddimalkapur, Hyderabad, was purchased by him under a Registered Agreement of Sale cum GPA, with possession, under Document No.2465 of 2009, dated 29.05.2009 from its owner viz., B. Jagan Mohan Reddy and the suit is filed seeking injunction against the defendant from interfering with his possession and enjoyment over the property. The ground taken by the revision petitioner that the subject property is a wakf property

is the one which would have to be established during the trial. As it is well settled that for consideration of application under Order VII Rule 11 C.P.C. what all required to look into is only plaint and if the plaint discloses the ingredients and does not fall within the exceptions under Order VII, the suit cannot be rejected. In the present case on hand, the trial Court rightly found that whether the suit property is wakf property or not, which is required to be established during the trial. In the event, if it is found as wakf property that would be the time to invoke the provisions of Section 85 of the Wakf Act.

5) In the circumstances, there being no illegality in the order of the Court below, the Civil Revision Petition is dismissed. There shall be no order as to costs.

6) As a sequel, miscellaneous petitions pending, if any, shall also stand dismissed.



CHALLA KODANDA RAM, J

Dated: 17.08.2017
Ssv