

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO.2514 OF 2017

ORDER:

This Civil Revision Petition is filed by the petitioner under Article 227 of the Constitution of India challenging the order, dated 10-02-2017 passed in I.A.No.738 of 2016 in O.S.No.235 of 2011 by the XIII Addl. Chief Judge, City Civil Court, Hyderabad.

2. Petitioner herein is the defendant, whereas the respondent herein is the plaintiff in O.S.No.235 of 2011, which was filed for declaration and permanent injunction.

3. Pending suit, the petitioner herein filed the above interlocutory application under Section 11 (2) of the Andhra Pradesh Court Fee and Suit Valuation Act, 1956 r/w Order VII Rule 10 r/w Section 151 CPC to direct the respondent to value the reliefs 'b' to 'd' and further direct the respondent to pay the Court fee thereon.

4. The trial Court after considering the documentary evidence available on record, dismissed the said application. Hence, the present revision.

5. The main allegation in the petition is that the reliefs 'b' to 'd' were not valued properly. It is stated in the written statement that the suit is grossly undervalued, as the value of the suit schedule property is more than Rs.10 crores. Basing on the said allegation in para 46 of the written statement, the petitioner requested the Court to direct the respondent to pay Court fee, on the reliefs covered by Cl. (b) to (d).

6. The respondent/plaintiff filed counter denying the material allegations *inter alia* contending that the suit is valued properly and the application filed by the petitioner cannot be

ordered exercising the power under Article 227 of the Constitution of India and prayed for dismissal of the revision.

7. A bare look at the order under challenge, it is very clear that the trial Court did not advert to allegations made in both the affidavit filed in support of the application and the counter, passed a cryptic order without any reasons. The trial Court agreed with the arguments of the learned counsel for the respondent that the market value has to be taken into consideration at the time of filing the suit and observed that there was no pleading in the written statement filed by the defendant in the main suit.

8. No doubt, there is no specific plea as to the under-valuation of the reliefs covered under Cl. (b) to (d). But, a bald allegation is made in para 46 of the written statement that the suit is not properly valued. The order under challenge is cryptic and no point for consideration was framed by the trial Court. Therefore, the order cannot be sustained. In the circumstances, the only option left open to the Court is to remand the matter to the trial Court and accordingly, the matter is remanded to the trial Court leaving it open to the parties to urge their contentions before the trial Court based on the pleadings on record and thereafter, the trial Court is directed to decide the application in accordance with law within a period of one month, thereafter.

9. With the above direction, the Civil Revision Petition is disposed of. No order as to costs. Miscellaneous petitions, if any pending, in this revision shall stand closed.

M.SATYANARAYANA MURTHY, J

DATED:28-06-2017.

Hsd