

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.6407 OF 2016

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dated 23.11.2016 in I.A.No.4 of 2013 in O.S.No.168 of 2008 on the file of the Court of the I Senior Civil Judge, City Civil Court, Hyderabad.

2. The contention of the learned counsel for the petitioner is two fold: (1) the trial Court failed to consider that no prejudice will be caused to the respondent even if the petition is allowed, and (2) the order passed by the trial Court is not sustainable either on facts or in law.

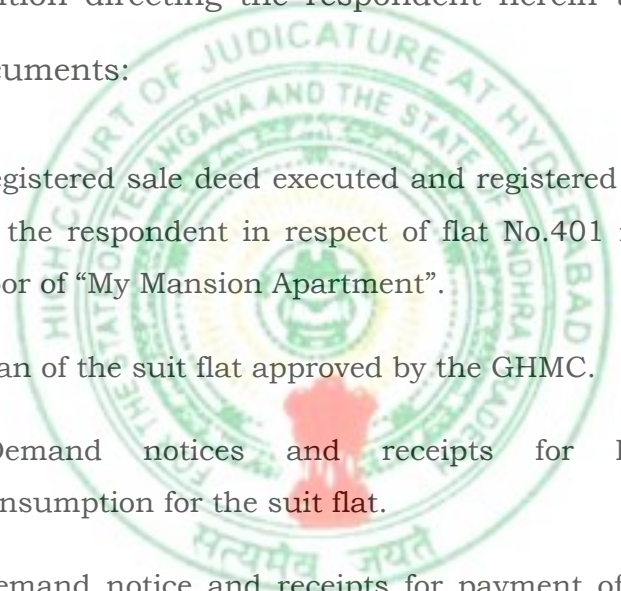
3. *Per contra*, the learned counsel for the respondent submitted that the trial Court has considered both factual and legal aspects and dismissed the petition. He further submitted that there is no illegality or irregularity in the order of the trial Court, which warrants interference of this Court.

4. The facts leading to filing of the present revision are briefly as follows:

The respondent herein filed O.S.No.168 of 2008 on the file of the Court of the I Senior Civil Judge, City Civil Court, Hyderabad, against the petitioner herein to vacate the suit schedule property and deliver the vacant physical possession to him and also pay rents. The petitioner filed a written statement taking a specific stand that the respondent is not the owner of the suit schedule property and one Smt. Saleha Salema is the owner of the property.

At the stage of the defendant's side evidence, the petitioner herein, who is the defendant, filed I.A.No.4 of 2013 under Order XII Rule 8 read with Section 151 of C.P.C. to call for the documents. The respondent herein filed the counter opposing the petition. The trial Court, after affording a reasonable opportunity to both parties, dismissed the petition. Hence, the revision.

5. The predominant contention of the learned counsel for the petitioner is that no prejudice would be caused to the respondent even if he is directed to produce the documents. The petitioner filed the petition directing the respondent herein to produce the following documents:

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- “(1) Registered sale deed executed and registered in favour of the respondent in respect of flat No.401 in the 4th floor of “My Mansion Apartment”.
 - (2) Plan of the suit flat approved by the GHMC.
 - (3) Demand notices and receipts for Electricity consumption for the suit flat.
 - (4) Demand notice and receipts for payment of property tax for the suit flat.
 - (5) I.T. Returns filed by the respondent showing receipt of rent for the period from 2000 to 2010 of suit property.”

6. No particulars furnished with regard to the date, month, and year of the sale deed. There is no mention in the petition when the respondent has obtained plan from G.H.M.C. The affidavit filed by the petitioner is silent with regard to the year and other particulars of demand notices as well as electricity bills. It is the case of the petitioner that she has been in possession and enjoyment of the suit schedule property. In such circumstances, the payment of

house tax and electricity bill by the respondent is somewhat improbable and unbelievable. The petitioner is also seeking the income tax returns of the respondent in order to prove the rent receipts. It is the case of the petitioner that she is not the tenant of the respondent. In such circumstances, production of the income tax returns is no way helpful to the petitioner. The entire controversy revolves around two aspects: (1) whether the respondent is the owner of the suit schedule property, and (2) If so, whether the petitioner is tenant of the respondent or not. Even if those documents are called for, the same may not throw any light on the controversy involved in the suit.

7. Learned counsel for the respondent submitted that the petitioner has taken two years time to adduce evidence on her side. When the matter was posted for the defendant's side evidence, for the reasons best known, the petitioner filed the present petition to direct the respondent to produce the documents. As observed earlier, even if the documents are called for, no useful purpose will be served to resolve the controversy involved in the suit. The trial Court made an observation that the documents are no way helpful to the petitioner. The trial Court has assigned reasons much less cogent and valid reasons while dismissing the petition. I am fully endorsing with the findings recorded by the trial Court. There is no illegality or irregularity in the order of the trial Court, which warrants interference of this Court, by exercising the jurisdiction under Article 227 of the Constitution of India. Hence, the revision lacks merits and *bona fides*.

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

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

T.SUNIL CHOWDARY, J

Date: 08.03.2017

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