

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**CIVIL REVISION PETITION No.1206 of 2018****ORDER:**

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed challenging the order in E.A.No.29 of 2016 E.P.No.9 of 2016 in R.C.No.76 of 2008 dt. 22.01.2018 passed by the Principal Rent Controller, City Small Causes Court, Secunderabad, dismissing the application filed Rule 23(7) of Andhra Pradesh (Lease, Rent and Eviction) Control Rules, 1961 (for short ' the Rules').

Heard the arguments of learned counsel for the petitioner/3rd party.

The petitioner filed a petition under Rule 23(7) of 1961 Rules, alleging that the petitioner is the legatee under the Will and entitled to 1/4th share in the schedule property and thereby the collusive decree obtained by the D.Hrs against the respondent/JDR cannot be executed. He also contended that he filed a suit for partition, which is the subject matter of O.S.No.115 of 2016, pending adjudication before XIX Additional Senior Civil Judge, Secunderabad. When the suit is pending for partition, the Court after full fledged trial, pass appropriate decree declaring the rights of the petitioner herein and pass preliminary decree and thereafter he can apply for final decree under Order 20 Rule 18 CPC and in the event of passing any decree in his favour, he is entitled to recover his share in the schedule property through process of the Court and when the suit is pending, this petition raising obstruction/objection for delivery of possession of the property in possession of the J.Dr being a tenant cannot be resisted and in fact the Court after conducting summary enquiry as contemplated under Rule 23 (7) of the Rules passed the impugned

Order holding that the petitioner is entitled to work out his remedy in the pending suit.

On overall consideration of the findings recorded by the Court, the Order passed by the Principal Rent Controller, City Small Causes Court, Secunderabad, is free from any illegality and irregularity and it does not call for any interference by this Court while exercising power under Article 227 of the Constitution of India and therefore, I find no ground to admit this petition and the same is liable to be dismissed at the stage of admission. However, the petitioner is entitled to work out his remedy in the pending suit for partition before XIX Additional Senior Civil Judge, Secunderabad.

With the above observation, this Civil Revision Petition is dismissed.

Miscellaneous Petition, if any pending, in this case, shall stand dismissed.



M. SATYANARAYANA MURTHY, J

Date: 23-02-2018
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HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY



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