

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRP.No.1251 of 2018

ORDER.

This Civil Revision Petition, under Article-227 of the Constitution of India, is filed challenging the order, dated 27.12.2017, in I.A.No.4339 of 2017 in P.S.R.O.P.No.1346 of 2015 passed by the learned Chief Judge, City Civil Court, Hyderabad, allowing the said petition with costs while rejecting PSROP.No.1346 of 2015 as it became infructuous.

The main ground urged by the petitioner in this Revision Petition is that the respondents are not the duly elected members and the findings recorded by the Court below in paragraph-13 of the impugned order are erroneous and are pre-mature and therefore, the petitioner prayed to set aside the said findings.

During hearing, learned counsel for the petitioner-Mr. P.Mehar Srinivasa Rao, reiterated the said contentions, without touching the merits of the petition, and prayed to leave it open to the petitioner herein to challenge by appropriate proceedings and requested this Court to set aside the findings recorded by the Court below in paragraph-13 of the order under challenge.

Learned counsel for the respondents-Mr. S.J.A.Nadeem, did not agree for setting aside the findings recorded in

paragraph-13 of the impugned order on the ground that PSR.OP.No.1346 of 2015 is rejected as it became infructuous.

It is an admitted fact that the afore-mentioned petition was filed under Order-VII Rule-11 (a) CPC to reject the plaint at the threshold on various grounds contained in 11(a) and (d) CPC, viz., petition did not disclose any cause of action or that the claim is barred by any other law.

The Court below having found that the P.S.R.O.P itself has become infructuous and the proceedings need not be continued, recorded specific findings in paragraph-13 of the impugned order that the question of appointing Receiver to manage the affairs of the society does not arise as the body was elected by due process of law and therefore, they cannot be restrained from discharging the duties and their action cannot be declared as illegal.

The above findings recorded by the Court below are unnecessary while deciding an application under Order-VII Rule-11 CPC, as the scope of Order-VII Rule-11 CPC is limited and if the Court is satisfied that the petition did not disclose any cause of action or the claim is barred by any other law, the Court is bound to reject the petition. Therefore, the findings in paragraph-13 of the order under challenge are hereby set aside,

while upholding the impugned order passed by the Court below in all other respects.

The Civil Revision Petition is, accordingly, disposed of.

As a sequel, the Miscellaneous Petitions, if any, pending shall stand dismissed.

JUSTICE M.SATYANARAYANA MURTHY

06th March 2018

DR

