

**THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY**

**CIVIL REVISION PETITION No.4237 OF 2018**

**ORDER:**

This Civil Revision Petition is filed under Article 227 of the Constitution of India assailing the order and decree dated 28.06.2018 passed in C.M.A.No.107 of 2017 on the file of XXVI Additional Chief Judge, City Civil Court at Hyderabad.

2. Heard the learned counsel for both parties.

3. A perusal of the record reveals that the respondents have filed O.S.No.1598 of 2017 on the file of XIX Junior Civil Judge, City Civil Court at Hyderabad, against the petitioners seeking perpetual injunction restraining them not to make constructions in the terrace on the fourth floor of the suit schedule property. Along with the suit, the respondents filed I.A.No.182 of 2017, under Order XXXIX Rules 1 and 2 C.P.C., seeking interim injunction. The trial Court dismissed the petition on merits. Feeling aggrieved by the order dated 16.10.2017 in I.A.No.182 of 2017 in O.S.No.1598 of 2017, the respondents preferred C.M.A.No.107 of 2017. Learned XXVI Additional Chief Judge, City Civil Court at Hyderabad allowed the C.M.A. on merits setting aside the order dated 16.10.2017 in I.A.No.182 of 2017 in O.S.No.1598 of 2017. Consequently, I.A.No.182 of 2017 was allowed restraining the petitioners not to make constructions in the terrace on the fourth floor of the suit schedule property. Hence, the revision.

4. Learned counsel for the petitioners submitted that the pent house was constructed on the terrace prior to filing of the suit. He

further submitted that the petitioners made an application to the Greater Hyderabad Municipal Corporation for regularization of the pent house. The contention of the learned counsel for the petitioners is that taking advantage of the order passed in C.M.A.No.107 of 2017, the respondents are not allowing the petitioners to use the pent house. There is no direction in the C.M.A. directing the petitioners not to use the pent house.

5. At the time of arguments, the only clarification sought by the learned counsel for the petitioners is the petitioners may be permitted to use the pent house. He further submitted that petitioners will not make constructions or repairs to the pent house.

6. In view of the submission made by the learned counsel for both parties, this Court is inclined to permit the petitioners to use the pent house on the fourth floor of the suit schedule property. No third party is entitled to use the pent house. The petitioners are further directed not to alienate the pent house during pendency of the suit.

7. With the above direction, the Civil Revision Petition is disposed of. There shall be no order as to costs.

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

**T.SUNIL CHOWDARY, J**

Date: 08.08.2018

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