

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

Civil Revision Petition No.4880 of 2018

ORDER:

This revision, under Article 227 of the Constitution of India, is preferred against the order passed by the IV Junior Civil Judge, City Civil Court, Hyderabad in I.A.No.395 of 2018 in O.S.No.834 of 2018 dated 10.07.2018.

The revision petitioner (plaintiff) filed O.S.No.834 of 2018 seeking perpetual injunction restraining the Greater Hyderabad Municipal Corporation (for short the "GHMC") from interfering with the construction work of the plaintiff, and from demolishing the suit schedule property, or any part thereof, belonging to the plaintiff. In the said Suit, the 1st respondent herein (proposed party) filed I.A.No.395 of 2018, under Order 1 Rule 10(2) r/w. Section 151 CPC, requesting the Court below to permit them to be impleaded as the 2nd respondent in I.A.No.246 of 2018, and as the 2nd defendant in O.S.No.834 of 2018.

In the order under revision, the Court below noted that the 1st respondent-proposed party was an Association of owners/residents of the apartment, who had formed themselves as such; all the members of the Association had purchased their respective flats in the year 1990-91; it is their case that the revision petitioner was accorded permission, for construction of a building consisting of cellar plus two upper floors; the G.P.A. Holder of the revision petitioner had tried to make construction, on the terrace, above the second floor; the 1st respondent-proposed party had represented to the authorities about the illegal and unauthorized construction; on the GHMC officials visiting the

apartment, the revision petitioner, and her power of attorney holder, had stopped construction; however, they had erected slabs on the third floor unauthorisedly; and it was necessary, therefore, that they be impleaded as the 2nd respondent in the I.A, and as the 2nd defendant in the Suit.

In the order under revision, the Court below observed that the object of Order I Rule 10(2) CPC, to implead a third party as a party to the Suit, is that the dispute in the Suit would be resolved in the presence of all litigants, and in order to avoid multiplicity of proceedings; the proposed party was questioning the right of the revision petitioner to make construction; they had contended that the revision petitioner was resorting to illegal and unauthorized construction in deviation of the approved/ sanctioned plan; and, therefore, they should be impleaded as the 2nd respondent in the I.A. The Court below held that the 1st respondent-proposed party was interested in the outcome of the Suit, and to safeguard their interest and to avoid multiplicity of proceedings it was appropriate to permit them to contest the Suit for effective adjudication.

The Suit filed by the revision petitioner is to restrain the GHMC from interfering with the construction being made by them on the third floor of the subject building. The 1st respondent, i.e., the proposed party in the I.A, had filed the I.A to implead themselves, as a respondent in the I.A. and as a defendant in the Suit, contending that permission was accorded only for construction of cellar plus two upper floors; and the construction being made by the revision petitioner, above the second floor, was actually a construction on the terrace of the building over which they had common rights. Since any order restraining the GHMC

from taking action against the revision petitioner would, undoubtedly, affect the rights of the 1st respondent-proposed party (petitioner in the I.A.), and with a view to avoid multiplicity of proceedings, which would be the result if they were relegated to file a separate Suit against the revision petitioner, the Court below allowed the application; and has impleaded the 1st respondent-proposed party as the 2nd defendant in the Suit, and as the 2nd respondent in I.A.No.246 of 2018. The jurisdiction which this Court exercises, under Article 227 of the Constitution of India, is supervisory and not appellate. Save patent illegality in the order under revision, no interference is called for. I see no such infirmity, in the impugned order, necessitating interference in proceedings under Article 227 of the Constitution of India.

The Civil Revision Petition fails and is, accordingly, dismissed. The Miscellaneous Petitions, if any pending, shall also stand dismissed. No costs.

(RAMESH RANGANATHAN, J)

Date:14.09.2018.

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