

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No. 6803 of 2017

O R D E R:

This civil revision petition, under Article 227 of the Constitution of India, is filed against the order dated 29.08.2017 passed in IA No.692 of 2017 in IA No.1980 of 2013 in OS No.513 of 2010 by the Chief Judge, City Civil Court, Hyderabad, seeking appointment of an Advocate Commissioner for sale of the property by publication in pursuance of the order dated 27.10.2016 passed by the trial court.

The respondents/plaintiffs filed IA No.692 of 2017 for the purpose stated above as the Commissioner filed his report stating that the property is not feasible for partition and the petitioner /1st defendant objected for the same for one reason or the other by filing counter affidavit by raising a specific objection that the conclusion arrived at by the Commissioner in his report is not correct. The Commissioner deliberately ignored the fact that the revision petitioner/defendant No.1 himself and respondent Nos.1 & 2 have got 90% of the share as per the preliminary decree and are already in occupation of the suit building. Therefore, based on the Commissioner's report, the property cannot be sold. The trial court dismissed the petition concluding that as per the recitals of the Will Deed, the property is not feasible for partition and

the Commissioner also supported the same since the property is in an extent of 100 sq.yds with G+1 with specific dimensions mentioned in the report of the Advocate Commissioner and proceeded to sell the property, over ruling the objections raised by the petitioner/respondent.

In the result, the civil revision petition is allowed and the order dated 21.07.2017 passed in IA No.692 of 2017 in IA No.1980 of 2013 in OS No.513 of 2010 on the file of the court of Chief Judge, City Civil Court, Hyderabad is set aside and the case is remitted back to the trial court with a direction to receive the objections filed by the revision petitioner/1st defendant on the Advocate Commissioner's report dated 18.02.2016 and pass appropriate orders thereon.

Dt. 30.11.2018
Mjl/*


M.SATYANARAYANA MURTHY, J