

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.149 of 2019

ORDER:

Heard the learned counsel for the petitioners.

2. This Revision Petition is filed under Article 227 of the Constitution of India challenging the decretal order dt.08-10-2018 in S.R.No.4005 of 2018 in un-registered O.S.No.....of 2018.

3. Petitioners herein are the plaintiffs in the said suit which they had filed for specific performance of agreement of sale in respect of certain land. After the plaint was presented, before it was numbered, objections were raised by the court below.

4. Learned counsel for the petitioners claims to have complied with the objections raised by the office.

5. The Court below observed that on verification of the plaint as well as the agreement in question, it appears that there are inconsistent dates and the corrections were not attested by the petitioners, that the Court Fee paid is insufficient and the petitioners did not endorse anything on the plaint, regarding their relinquishment. It, therefore, opined that the plaint is liable to be rejected on the ground of failure to comply with the objections.

6. Assailing the same, this Civil Revision Petition is filed.

7. It is settled law that when plaint is rejected, the order passed by the Court below would be deemed to be a decree as per Section 2 (2) CPC. When such effective remedy by way of appeal is available to the petitioners, they are not entitled to file a Revision under Article 227 of the Constitution of India merely because it would save the petitioners' payment of the Court Fee in the appeal and they would have the benefit on having the trial Court order set aside, on mere payment of the Court Fee of Rs.100/-.

8. Therefore, granting liberty to the petitioners to avail appellate remedy under Section 96 CPC against the impugned order, this Civil Revision Petition is dismissed. No costs.

9. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 01-02-2019
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