

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Civil Revision Petition No.1080 of 2019

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/1st defendant, challenging the order, dated 27.02.2019, passed in I.A.No.1980 of 2013 in O.S.No.513 of 2010, on the file of the Chief Judge, City Civil Court, Hyderabad, whereby, the petition filed by the respondents 1 and 2/plaintiffs under Order XX Rule 18(2) read with Section 151 of C.P.C. requesting to pass a final decree in their favour permitting the parties therein to go for a private sale and distribute the sale proceeds in proportion to the shares allotted to them in the preliminary decree, dated 22.11.2012, after payment of Rs.4,00,000/- to Sri Triambak Rao Bharti, was ordered.

2. Heard the learned counsel for the revision petitioner/1st defendant, the learned counsel for the 1st respondent/1st plaintiff on caveat and perused the record.

3. The learned counsel for the revision petitioner/1st defendant would contend that the order under challenge is erroneous. The suit schedule property is divisible into four parts. The advocate commissioner has not properly measured and prepared the plan. The Court below had not considered these objections, in spite of orders passed by this Court on 30.11.2018 in C.R.P.No.6803 of 2017 and ultimately prayed to

allow the Civil Revision Petition by setting aside the order under challenge.

4. The learned counsel for the 1st respondent/1st plaintiff would contend that the disputed property is a house property admeasuring 332 square yards consisting of ground and first floor. It is required to be divided into four parts in the ratio of 30:30:30:10. It is not divisible. The Advocate Commissioner has properly measured and prepared the plan. The Court below is justified in ordering notification/advertisement of the sale of the suit schedule property in 'Hindu Daily' English Newspaper, Hyderabad Edition. There is no illegality or perversity in the impugned order and ultimately prayed to dismiss the Civil Revision Petition by confirming the order under challenge.

5. The material placed on record reveals that the advocate commissioner has inspected the suit schedule property and prepared the plan giving details of measurements and also stated that the property cannot be divided in terms of the preliminary decree. The Court below, having considered the objections raised by the revision petitioner/1st defendant and the entire material on record, was pleased to pass the impugned order, dated 27.02.2019, ordering notification/advertisement of sale of the suit schedule property in 'Hindu Daily' English Newspaper, Hyderabad Edition, fixing the date of auction as 16.04.2019 at 10:30 AM in the Court premises. The Court below had discussed all the contentions

raised on behalf of the revision petitioner/1st defendant, including the objections made to the advocate commissioner's report, and passed a detailed and elaborate order holding that the suit schedule property cannot be partitioned in terms of the preliminary decree and the right option is to sell the property and accordingly issued sale proceedings. The Court below neither exceeded the jurisdiction vested in it nor committed any illegality, in passing the impugned order. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

6. In the result, the Civil Revision Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand dismissed.

11th September, 2019
Bvv

Dr. SHAMEEM AKTHER, J