

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.1311 of 2019

ORDER :

This Revision is filed under Article 227 of the Constitution of India challenging the order dt.01-03-2019 in I.A.No.1 of 2018 in O.S.No.190 of 2008 of the Additional Junior Civil Judge at Sircilla.

2. Petitioner herein is a third party to the suit.

3. The 1st respondent herein filed the said suit against respondent Nos.2 and 3 for declaration of title and recovery of possession in respect of the plaint schedule property and also other reliefs.

4. Petitioner filed I.A.No.1 of 2018 in the said suit alleging that he purchased, out of the plaint schedule properties, Ac.0.17½ gts from the 1st respondent under an agreement of sale dt.23-04-1988 by paying Rs.3,550/-, and that he is therefore a necessary party to the suit.

5. Counter-affidavit was filed by 1st respondent opposing the said application denying the execution of said agreement of sale or receiving any consideration thereunder. It is further contended that suit for specific performance has also not been filed against 1st respondent and the limitation for filing such a suit expired on 03-07-1991 itself.

6. By order dt.01-03-2019, the Court below dismissed I.A.No.1 of 2018 in O.S.No.190 of 2008. It held that the agreement of sale does not create any right over the property in respect of which it is

executed, and it only creates a right to get a decree in a suit for specific performance against executor or recovery of money. It also observed that petitioner did not take any steps to seek specific performance of the said agreement of sale and no valid explanation has been given for his inaction all these years.

7. Assailing the same, this Revision is filed.

8. Though learned counsel for petitioner sought to contend that petitioner would be seriously prejudiced and his right would be affected if 1st respondent/plaintiff does not properly contest the suit, I am unable to accept the said contention for the reason that the agreement of sale relied on by petitioner does not by itself create any interest in the property which is mentioned therein. As rightly held by the Court below, it only gives a right to the petitioner to seek specific performance or refund of money paid thereunder. Also, there is no valid explanation as to why he did not take any steps to obtain the sale deed on the basis of the said agreement of sale through Court by filing suit for specific performance.

9. In this view of the matter, I do not find any error of jurisdiction in the order passed by the Court below warranting interference by this Court in exercise of its power under Article 227 of the Constitution of India.

10. The Civil Revision Petition fails and it is accordingly dismissed. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 23-08-2019

Vsv

