

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.1982 of 2019

ORDER:

This revision, under Article 227 of the Constitution of India, is filed by the petitioner/plaintiff aggrieved by the order dated 15.07.2019 passed in C.M.A.No.139 of 2018 by III Additional Chief Judge, City Civil Court, Hyderabad, confirming the order dated 12.10.2018 passed in I.A.No.246 of 2018 in O.S.No.834 of 2018 by IV Junior Civil Judge, City Civil Court at Hyderabad.

2. Heard learned counsel for the revision petitioner and learned counsel for respondent No.2 and perused the record.

3. Learned counsel for the revision petitioner would submit that there is existence of III Floor. The revision petitioner had paid challan and filed application as required under the Rules to regularize III floor. However, respondent No.1-Greater Hyderabad Municipal Corporation herein did not take any action on that application till date. He would also submit that both the Courts below erroneously passed the impugned orders and ultimately, prayed to set aside the impugned orders and allow I.A.No.246 of 2018 as prayed for, by granting temporary injunction pending adjudication of O.S.No.834 of 2018.

4. In spite of service of notice on respondent No.1, there is no representation on its behalf.

5. Learned counsel for respondent No.2 would submit that there is no existence of III Floor. There is no single document to substantiate the existence of III Floor and the action taken by respondent No.2 to regularize the construction of III Floor only. Skeleton of III Floor is available and was constructed against the agreement entered between respondent No.2 and the revision petitioner and ultimately, prayed to dismiss the Civil Revision Petition.

6. The point for determination is:

“whether the impugned order is liable to be set aside and I.A.No.246 of 2018 is allowed as prayed for.”

7. A perusal of the order dated 12.10.2018 in I.A.No.246 of 2018 discloses that no single document is filed by the revision petitioner to establish the existence of construction of III Floor and filing of application to regularize the same. No copies of challans etc., are filed before the Court below to substantiate the same. The trial Court having examined the contentions held that there is no *prima facie* case and balance of convenience in favour of the petitioner to grant equitable relief of temporary injunction. It is also relevant to state that there is no material to establish the construction of III Floor as contended by the revision petitioner. Further, there is also no documentary evidence to substantiate the filing of application to regularize the same. There is a serious dispute between respondent No.2 and the revision petitioner with regard to the construction of III Floor over the disputed property.

8. Under these circumstances, both the Courts below are justified in passing the impugned orders. They have rightly exercised the jurisdiction vested therein. No illegality is found to interfere with the impugned orders. The revision petition is devoid of merit and is liable to be dismissed.

9. In the result, the Civil Revision Petition is dismissed.

Pending miscellaneous applications, if any, shall stand dismissed in consequence.

23rd SEPTEMBER, 2019.

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Dr. SHAMEEM AKTHER, J

