

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Civil Revision Petition No.2566 of 2019

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/plaintiff, challenging the order, dated 12.06.2019, passed in I.A.No.192 of 2019 in O.S.No.383 of 2018, by the I Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar, whereby, the petition filed by the revision petitioner/plaintiff under Order XII Rule 6 read with Section 151 of CPC praying the Court below to pass judgment on the admission being made by the respondent No.1 in written declaration, dated 15.05.2013, in respect of 'B' Schedule property and thereby allot one acre of land to the revision petitioner/plaintiff and respondent Nos.4 to 6, was dismissed.

2. Heard the learned counsel for both the sides and perused the record.

3. The learned counsel for the revision petitioner/plaintiff would contend that there is admission with regard to the schedule 'B' property by respondent No.1 in the written declaration, dated 15.05.2013. In view of the admission made by respondent No.1, the suit is required to be decreed in respect of the area covered by the subject written declaration, dated 15.05.2013, as contemplated under Order XII Rule 6 of CPC. The impugned order is erroneous, not in tune with the Order XII Rule 6 of CPC

and ultimately prayed to set aside the order under challenge and allow the Civil Revision Petition as prayed for.

4. On the other hand, the learned counsel for the respondents 1 to 3/defendants 1 to 3 would contend that there is no unambiguous and unequivocal admission by the respondent No.1 with regard to the subject written declaration, dated 15.05.2013, either in the counter or in the pleadings putforth by them. When there is no admission by the parties to the litigation, no decree can be passed in terms of Order XII Rule 6 of CPC. The Court below is justified in passing the impugned order. There no illegality or perversity in the order under challenge and ultimately prayed to dismiss the Civil Revision Petition.

5. In view of the submissions of both the learned counsel, the point that arises for determination in this Civil Revision Petition is as follows:

“Whether the order, dated 12.06.2019, passed in I.A.No.192 of 2019 in O.S.NO.383 of 2018, by the I Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar, is liable to be set aside?”

6. As seen from the material placed on record, there is no specific admission by respondent No.1, as contended by the revision petitioner/plaintiff, with regard to the subject written declaration, dated 15.05.2013, either in the counter or in the written statement filed by the respondents 1 to 3 herein/defendants 1 to 3. There is no specific denial of the subject written declaration, dated 15.05.2013. The requirement

under Order XII Rule 6 of CPC is that there should be unambiguous and unequivocal admission by the parties to the litigation, either orally or in writing. This aspect was rightly appreciated and considered by the Court below. In the absence of unambiguous and unequivocal admission by the parties, it is not appropriate to partition the 'B' schedule property, i.e., one acre of land covered by subject written declaration, dated 15.05.2013 (Farm House). There are disputes with regard to the setting up of title to one acre of land by the respondents 1 to 3 herein/defendants 1 to 3. The respondents 1 to 3 herein/defendants 1 to 3 have set up title in respect of farm house admeasuring one acre of land as well as the subject suit land covered by written declaration, dated 15.05.2013, by way of oral gift. Under these circumstances, the subject suit is required to be determined after due trial. The Court below is justified in passing the impugned order. There is nothing to take a different view. There is neither perversity nor illegality in the order under challenge. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

7. Accordingly, 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 closed.

13th November, 2019
Bvv

Dr. SHAMEEM AKTHER, J