

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Civil Revision Petition No.7495 of 2018

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioners/plaintiffs, aggrieved by the common order, dated 23.10.2018, passed in I.A.Nos.294 & 585 of 2018 in I.A.No.563 of 2017 in O.S.No.2606 of 2017, by the IX Junior Civil Judge, City Civil Court, Hyderabad, whereby, the subject petitions filed by the revision petitioners/plaintiffs under Order I Rule 10 read with Section 151 of CPC to implead the proposed party, i.e., The Commissioner, Greater Hyderabad Municipal Corporation, Tank Bund, Hyderabad (for short, "GHMC") as defendant No.2 in the main suit and as respondent No.2 in I.A.No.563 of 2017, was dismissed.

2. Heard the learned counsel for the revision petitioners/plaintiffs and perused the record.

3. The learned counsel for the revision petitioners/plaintiffs would submit that the proposed party, i.e., GHMC, is a necessary party to I.A.No.563 of 2017 and also in O.S.No.2606 of 2017, on the file of the IX Junior Civil Judge, City Civil Court, Hyderabad. The respondent No.1/defendant No.1 has been violating the building rules and making illegal constructions. To prove the claim of the revision petitioners/plaintiffs, the proposed party, i.e., GHMC, is required to be added as respondent No.2. The Court below erroneously dismissed both the subject interlocutory

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

4. When the subject suit is filed seeking perpetual injunction and demolition of alleged illegally constructed flat, it is for the revision petitioners/plaintiffs to prove the suit claim by leading cogent and convincing evidence. If there are any violations in the construction of building, a copy of building plan can be filed and alleged violations can be proved by leading other evidence. The Court below held that GHMC is not the proper and necessary party to the suit proceedings. Furthermore, there is no record to show that a complaint was filed with the GHMC by the revision petitioners/plaintiffs bringing the alleged violations to its notice. As rightly held by the Court below, the GHMC is not the proper and necessary party to determine the subject dispute. The Court below passed a reasoned order and no perversity is found in the same. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

5. 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 closed.

Dr. SHAMEEM AKTHER, J

11th December, 2019
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