

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Civil Revision Petition No.2037 of 2019

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/defendant No.2, challenging the order, dated 19.02.2015, passed in I.A.No.1887 of 2012 in O.S.No.658 of 2011 by the I Additional District Judge, Ranga Reddy District at L.B.Nagar, whereby, the petition filed by the revision petitioner/defendant No.2 under Order VII Rule 11 of CPC seeking rejection of the plaint submitted by the respondent No.1/plaintiff, was dismissed.

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

3. It has been contended on behalf of the revision petitioner/defendant No.2 that there is no agreement in between the parties to litigation to alienate Flat No.605 F along with one car parking space together with proportionate undivided share in land in the building known as 'Mantri Celestia' situated in Survey Nos.126, 127, 130 to 133 at Nanakramguda Village, Serilingampally Mandal, Ranga Reddy District. Under these circumstances, the subject suit for specific performance of contract is not maintainable. Further, there is no cause of action to file the subject suit. Without there being substance and material to proceed with, the Court below numbered the suit and is being proceeded with, which is

erroneous. The Court below is unjustified in dismissing the subject interlocutory application by order, dated 19.02.2015, and ultimately prayed to set aside the order under challenge and allow the subject I.A.No.1887 of 2012 by rejecting the plaint submitted by the respondent No.1/plaintiff.

4. As per the averments in the plaint submitted by the respondent No.1/plaintiff before the Court below, the revision petitioner/defendant No.2 agreed to alienate the subject Flat No.605 F for consideration. There is also correspondence between the respondent No.1/plaintiff and the bank from which the respondent No.1/plaintiff intended to obtain loan for purchasing the subject flat. There are also other recitals in the plaint with regard to the agreement in between the respondent No.1/plaintiff and the revision petitioner/defendant No.2 to sell the subject Flat No.605 F. In the plaint averments, there are pleadings relating to the alleged purchase of the subject Flat No.605 F and subsequent denial of sale in between the parties to the litigation. The Court below had elaborately dealt with these contentions and ultimately dismissed the subject interlocutory application. There is no material irregularity or infirmity in the order under challenge. The Civil Revision Petition is devoid of merit and is liable to be dismissed. It is made clear that any observations made in this order shall not have any bearing on the subject suit in O.S.No.658 of 2011.

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

03rd January, 2020
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