

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**FRIDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE P.SAM KOSHY

CIVIL REVISION PETITION NO: 3499 OF 2023

Petition filed under Article 227 of Constitution of India, against the Order dated 20.09.2023 passed in I.A.No. 326 of 2021 in O.S.No. 3420 of 2019 on the file of the XIX Junior Civil Judge, City Civil Court, Hyderabad.

Between:

1. Syed Badruddin, S/o Late Syed Sharfuddin, Aged about 74 years, Occ Retd. Government Servant, R/o H.No. 16-9-873, Old Malakpet, Hyderabad, Telangana State.
2. Syed Qamruddin, S/o Late Syed Sharfuddin, Aged about 68 years, Occ Business, R/o H.No. 4-1-62, Hayathnagar. Ranga Reddy District. Represented by the GPA Holder Syed Mohammed Asim, S/o Syed Badruddin, Aged about 37 years, Occ Service, R/o H.No. 16-9-873, Dhobi Galli, Old Malakpet, Hyderabad.

...PETITIONERS/DEFENDANTS 1 & 2

AND

1. Syed Moinuddin, S/o Late Syed Sharfuddin, Aged about 68 years, Occ Business, R/o H. No. 17- 9- 128/1/2, Kurmaguda, Saidabad, Hyderabad, T.S.

...RESPONDENT/PLAINTIFF

2. Shakera Begum, D/o Late Syed Sharfuddin, W/o Late Dr. Mohammed Basheer Khan, Aged about 66 years, Occ Household, R/o. H.No. 17-9-128/1/2, Kurmaguda, Saidabad, Hyderabad. T. S.
3. Nazeera Banu, W/o Late Syed Iqbal, Aged about 73 years, Occ Household. R/o H.No. 18- 8- 242/A/35/2, MoinBagh, Edi Bazar, Hyderabad.
4. Syed Maqbool Ahmed, S/o Late Late Syed Iqbal, Aged about 39 years, Occ Private service. R/o H.No. 18-8-242/A/35/2, MoinBagh, Edi Bazar, Hyderabad.
5. Ayesha Parveen, W/o Khaja Moinuddin, D/o Late Syed Iqbal, Aged about 35 years, Occ Household, R/o H.No. 18-8-242/A/35/2, MoinBagh, Edi Bazar, Hyderabad.

...RESPONDENTS/DEFENDANTS 3 to 6

I.A. NO: 1 OF 2023

Petition under Section 151 of CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings in OS No. 3420 of 2019 on the file of the XIX Junior Civil Judge, City Civil Court, Hyderabad.

I.A. NO: 2 OF 2023

Petition under Section 151 of CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to permit the General Power of Attorney Holder to prosecute the CRP No. 3499 of 2023 and in all miscellaneous petitions In the Civil Revision Petition on behalf of the petitioner.

Counsel for Petitioners : Sri CH. RAVINDER

Counsel for Respondents : None appeared

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE P.SAM KOSHY

C.R.P. No. 3499 of 2023

ORDER:

Heard Mr. Ch. Ravinder, learned counsel for the petitioners and perused the record.

2. The instant civil revision petition has been filed assailing the order dated 20.09.2023 passed in I.A.No.326 of 2021 in O.S.No.3420 of 2019 by the learned XIX Junior Civil Judge, City Civil Court, Hyderabad.

3. Vide impugned order dated 20.09.2023, the Court below has rejected the I.A., filed by the petitioners herein under Order VII Rule 11 R/w Section 151 of the C.P.C., seeking for the rejection of want of action.

4. A perusal of the record would clearly indicate that the petitioners and the respondents *interse* are siblings and the relationship is not in dispute. The suit filed is for partition. In the suit, it was said that the plaintiff within the family had made an effort for partition of the suit property, but was refused. It is this observation in the suit which has prompted the petitioners/defendants in filing the objection under Order VII Rule 11 R/w Section 151 of the C.P.C., saying that the cause of action has not been specifically disposed. The very fact is that the relationship *interse* between the parties are not in dispute and the parties being

members of the same family except the fact that there is a specific averment in the suit that the plaintiff had requested the family members for a partition which was refused. Now whether there was any request made by the petitioners, whether there was refusal on the part of the defendants are all matter of evidence and mix question of fact and law so as to determine the cause of action.

5. However, the said facts, more particularly, taking note of the fact that the present is a petition under Article 227 of the Constitution of India, where it is only the supervisory jurisdiction which needs to be exercised subjecting the impugned order to judicial review. This Court is of the firm view that there does not appear to be any jurisdictional error nor any perversity on the part of the Court below in passing the said order.

6. The Civil Revision Petition, thus being devoid of merits, deserves to be and is accordingly rejected. No order as to costs.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

//TRUE COPY//

SD/SMT. V. KAVITHA
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The XIX Junior Civil Judge, City Civil Court, Hyderabad.
2. One CC to Sri. CH. RAVINDER, Advocate [OPUC]
3. Two CD Copies.

Njb

HIGH COURT

PSK, J

DATED:15/12/2023

ORDER

CRP.No.3499 of 2023



REJECTING THE CIVIL REVISION PETITION