

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

**THURSDAY, THE TWENTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE P.SAM KOSHY

CIVIL REVISION PETITION NO: 3611 OF 2023

Petition under Article 227 of the Constitution of India, to set aside the impugned Order of dismissal of I.A No. 1162 / 2023 in O.S No. 465 / 2018 dated. 04/09/2023 passed by the Honourable XXVIth Additional Chief Judge, City Civil Courts, Hyderabad.

Between:

1. Y. Vijayalakshmi, W/o Late Y.S Reddy, Aged. 56 Years, Occ. Widow. (All R/o H.No. 8-2-293/82/NL/50, Road No. 10/C, Jubilee Hills, Hyderabad)
2. Dr. Y. Nisha Reddy, D/o Late Y.S Reddy, Aged. 30 Years, Occ. Doctor. (All R/o H.No. 8 -2 -293/82/NL/50, Road No. 10/C, Jubilee Hills, Hyderabad)
3. Y. Rajiv Reddy, S/o Late Y.S Reddy, Aged. 26 Yrs, Occ. student. (All R/o H.No. 8-2-293/82/NL/50, Road No. 10/C, Jubilee Hills, Hyderabad)

...PETITIONERS

AND

1. Ashish Aggrawal, S/o Ratanlal, Aged. 36 Years, Occ. business. (All R/o Flat No. 401, B-Block, 4th Floor, Y.R.S Residency, H.No. 3-4-769, Barkatpura, Hyderabad)
2. Vijay Aggrawal, S/o Ratanlal, Aged. 34 Years, Occ. business. (All R/o Flat No. 401, B-Block, 4th Floor, Y.R.S Residency, H.No. 3-4-769, Barkatpura, Hyderabad)
3. Smt. Tina Aggrawal, W/o Vijay Aggrawal, Aged. 31 Years, Dcc. Household. (All R/o Flat No. 401, B-Block, 4th Floor, Y.R.S Residency, H.No. 3-4-769, Barkatpura, Hyderabad)

...RESPONDENTS

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to pass an order directing the respondents to commence trial in O.S.No. 465 of 2018 on the file of the Honourable XXVIth Additional Chief Judge, City Civil courts, Hyderabad, by this Honourable Court fixing a time frame for disposal of O.S. No. 465 of 2018.

Counsel for the Petitioner(s):SRI. RAKESH SANGHI, ADVOCATE

Counsel for the Respondents: SHYAM S AGRAWAL, ADVOCATE

The Court made the following ORDER:

THE HON'BLE SRI JUSTICE P. SAM KOSHY

CIVIL REVISION PETITION No.3611 of 2023

ORDER:

The challenge in the present Civil Revision Petition is the order dated 04.09.2023, passed in I.A.No.1162 of 2023 in O.S.No.465 of 2018 on the file of the learned XXVI Additional Chief Judge, City Civil Court, Hyderabad.

2. Heard Sri Rakesh Sanghi, learned counsel for the petitioners and Sri Shyam S Agarwal, learned counsel for respondents and perused the record.

3. The whole proceedings arises out of the suit for specific performance by the respondent/plaintiff against the petitioners herein. Respondent/plaintiff is tenant and the petitioners are the land lord. The suit scheduled property is Flat No.401 on the 4th floor in the B-block, Y.R.S. Residency on proper basing municipal No.3-4-769, situated at Barkatpura, Hyderabad admeasuring 2218 Square feets.

4. Vide the impugned order dated ~~04~~04.09.2023, the Court below has rejected an application under order XI Rules 12

and 14 read with Sections 30 and 151 of the C.P.C. Vide the said application, the petitioners herein sought relief from the Court to pass an order directing the respondent/plaintiff to produce and file in the subject suit, certain information in respect of their readiness and willingness to purchase the said suit scheduled property which was rejected by the Court below.

5. Considering the fact that the present C.R.P. is invoking Article 227 of the Constitution of India, where the only scope of interference available is in the event of there being any jurisdictional error or the finding arrived at by the Court below is erroneous. The petitioner has filed the present petition saying that the respondent/plaintiff is not in a position to purchase the property. Therefore, in order to frustrate the agreement, he has filed the present suit under valuing the same with a Court fees of Rs.1. Learned counsel for the petitioner relies upon the judgment of Hon'ble Supreme Court in "**Maria Margarida Fernandes and**

others Vs. Erasmo Jack de Sequeria (dead) through LRs¹, in this regard.

6. During the course of hearing, learned counsel for the petitioner contended that the very purpose of filing of the said application was to ascertain whether the respondent/plaintiff has the financial capability of paying the balance of the sale consideration. This in turn means that the petitioner herein, subject to the petitioner able to show his financial capability would not have any difficulty in honouring the agreement entered in between the parties.

7. In the teeth of the aforesaid facts, if we look into the decision that has to be arrived at by the Court below, this Court does not find any illegality or perversity in the course of rejecting I.A.No.1162 of 2023. As regards, the judgment of "**Maria Margarida Fernandes Case**", this Court is of the considered opinion that the said judgment has been passed in an entirely different background unlike the facts of the present case. In the instant case the intention of the

¹AIR 2012 SC 1727

petitioner seems to be to ascertain whether the plaintiff would be in a position to purchase the property with the available financial capability. Hence, the said judgment would not be applicable to the facts of the present case.

8. Considering the entire facts and circumstances of the case, this Court is of the considered opinion that it would be more appropriate if the Court below is directed to ensure that the trial itself is proceeded with on priority basis and conclude the matter within a period of six(6) months from the date of receipt of copy of this order.

9. The present Civil Revision Petition being devoid of merits, deserves to be and is accordingly rejected with the aforesaid directions. No costs.

As a sequel, miscellaneous petitions, if any pending, shall stand closed.

SD/- P.PADMANABHA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. XXVIth Additional Chief Judge, City Civil courts, Hyderabad
2. One CC to SRI. RAKESH SANGHI Advocate [OPUC]
3. One CC to SRI. SHYAM S AGRAWAL Advocate [OPUC]
4. Two CD copies

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HIGH COURT

DATED:21/12/2023



ORDER

CRP.No.3611 of 2023

**CRP is rejected with the
aforesaid directions.**

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