

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

FRIDAY THE SIXTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE P.SAM KOSHY

CIVIL REVISION PETITION NO: 3685 OF 2024

Petition under Article 227 of the Constitution of India, praying that in the circumstances stated in the grounds filed herein, the High Court may be pleased to set aside the Order dated 09-09-2024 passed in IA No.364 of 2024 in OS No.96 of 2024 on the file of Hon'ble I Additional Junior Civil Judge cum XII Additional Judicial Magistrate of First Class, R.R. District at Rajendra Nagar and thereby allow the application vide IA No.364 of 2024 in OS No.96 of 2024 on the file of Hon'ble I Additional Junior Civil Judge cum XII Additional Judicial Magistrate of First Class, R.R. District at Rajendra Nagar, reject the plaint and pass

Between:

1. A. Sri. Maddela Venu Gopal Goud, S/o. Sri M.Yadaiah Goud, Aged 33 years, Occupation. Business, R/o.H.No.2-25, Bandlaguda Jagir Village, Gandipet Mandal, R.R.District.
2. Sri. Maddela Prem Goud, S/o. Sri M.Yadaiah Goud, Aged 38 years, Occupation. Business, R/o.H.No.2-25, Bandlaguda Jagir Village, Gandipet Mandal, R.R.District

...Petitioner/Def.Nos.1&2

AND

Sri.Gudise Bala Krishna, S/o. Sri.G.Venkata Swamy, Aged about . 37 years, Occ Employee, R/o. H.No.2-183, Hydershakote Village, Gandipet Mandal, R.R.District. Rep by AGPA Burra Surender Goud S/o. B.Ramulu Goud, Aged about . 37 years, Occ . Business, R/o. H.No.1-25, Bandlaguda Jagir, Gandipet Mandal, R.R.District

...Respondents/Plaintiff

IA NO: 1 OF 2024

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 stay of all further proceedings in OS No. 96 of 2024 on the file of Honorable Ist Additional Junior Civil Judge cum XII Additional Judicial Magistrate of First Class, R.R. District at Rajendra Nagar, pending disposal of the CRP, in the interest of justice and to pass

Counsel for the Petitioner(s): SRI. Payalla Chandra Shekar

Counsel for the Respondents: None appeared

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE P.SAM KOSHY

C.R.P.No.3685 OF 2024

ORDER:

Heard Mr. Chandrashekar Payalla, learned counsel for the petitioners. Perused the record.

2. The present is a civil revision petition which has been filed under Article 227 of the Constitution of India against the impugned order dated 09.09.2024 passed in I.A.No.364 of 2024 in O.S.No.96 of 2024, on the file of the learned I-Additional Junior Civil Judge-cum-XII Additional Judicial Magistrate of the First Class, Ranga Reddy District, at Rajendranagar.

3. Vide the impugned order, the trial Court has rejected the Order VII Rule 11 CPC petition filed by the petitioners/defendants Nos.1 and 2. The objection raised by defendant Nos.1 & 2 was that the suit being barred by law. However, perusal of the record would show that the suit is filed for partition and for separate possession along with declaration to the extent of cancellation of the registered sale deed dated 27.10.2023.

4. The facts, in brief, are that the respondent/plaintiff agreed to sell the suit schedule property to the defendants on 26.10.2023.

The sale deed to the aforesaid extent in respect of the suit schedule property was also got executed on 27.10.2023. As regards the balance of the sale consideration, the petitioners have issued a cheque, which the respondent put the same for encashment on 27.10.2023. However, the same was got dishonoured on the ground of insufficient funds. It is on account of this dishonouring of cheque when the plaintiff found the conditions of the balance of sale consideration not being obliged by the petitioners, that compelled him to approach the Court seeking for cancellation of the sale deed on the ground of non-payment of sale consideration in terms of the sale deed.

5. At this juncture, the petitioners have filed a petition under Order VII Rule 7 CPC alleging that the suit is barred by law. It is contended by the petitioners that the suit filed by the respondent is not maintainable as once the sale deed having been executed, only on the ground of non-compliance of the condition to the sale deed so far as payment of the balance of sale consideration is concerned, there cannot be a suit for cancellation of sale deed. The plaintiff, if at all was aggrieved of the non-payment of the balance of sale

consideration, he ought to have availed other appropriate recourse under law.

6. This Court is not inclined to accept the said contention of the petitioners for the reason that the conduct of the petitioners/defendant Nos.1 and 2 itself emphatically displays that having entered into agreement of sale followed by the sale deed being executed with a condition that for the balance of the sale consideration the petitioners/defendant Nos.1 and 2 having issued cheque, however, the said cheque has got dishonoured on the ground of insufficient funds. As per the contents of the plaint, the plaintiff had thereafter approached the petitioners/defendant Nos.1 and 2 for making arrangement of the balance of payment as the cheque had got dishonoured, which also was not honoured by defendant Nos.1 and 2 which led to filing of the suit for cancellation of the sale deed.

7. *Prima facie*, this Court is of the opinion that the view taken by the trial Court cannot be found fault with, as the contention of the learned counsel appearing for the petitioners are based on admitted facts without there being any dispute in respect of the

transactions and also so far as the petitioners not making the entire balance of payment to the respondent.

8. So far as the petition under Order VII Rule 11 CPC is concerned, the same has to be strictly culled out from the contents of the plaint alone. That a petition under Order VII Rule 11 CPC cannot be decided or allowed based upon the averments made in the written statement of defendants. As regards the *bona fides* on the part of the petitioners/defendant Nos.1 and 2 is concerned, those are all matters of trial and evidence which the petitioners can avail during the course of the trial. Reserving the right of the petitioners to avail the same, this Court does not find any illegality on the part of the trial Court in rejecting the petition under Order VII Rule 11 CPC.

9. The civil revision petition is, accordingly, rejected. There shall be no order as to costs.

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

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Sd/- MOHD. ISMAIL
ASSISTANT REGISTRAR

SECTION OFFICER

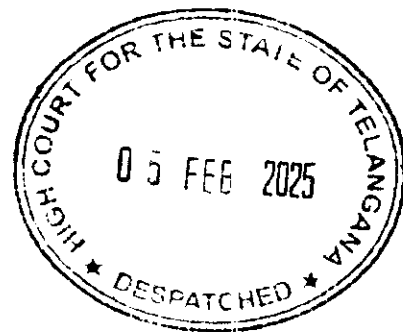
To,

1. The I Additional Junior Civil Judge cum XII Additional Judicial Magistrate of First Class, R.R. District at Rajendra Nagar (with records if any)
2. One CC to SRI. Payalla Chandra Shekar, Advocate [OPUC]
3. Two CD Copies

HIGH COURT

DATED:06/12/2024

ORDER
CRP.No.3685 of 2024



CIVIL REVISION PETITION IS REJECTED.

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MMO
29/1/2025