

ORDER BELOW EXH. 61

The plaintiff has filed this application for permission to lead evidence. Defendants filed written statement dated 10-10-1988 at Exh.10. After framing of issues, defendants filed application at Exh.28 for recasting of issues which was allowed. Additional issue was framed on 13-04-1995 as under-

“ Do the defendants prove that the disputed land is in their possession as a protected tenant under Hyderabad Tenancy and Agriculture Land Act since their father ? ”

The above sole issue has been referred to Tahasildar as he is competent authority to decide the rights and hold inquiry under Hyderabad Tenancy and Agriculture Land Act. The matter is pending for finding on inquiry and inspite of several reminders and letters since 1995 till today neither Tahasildar has sent any report nor defendants have taken steps in that regard. It is prayed to permit the plaintiff to lead evidence.

2] Perused the application and record. Heard learned advocate of the plaintiff.

3] The record shows that defendants filed application at Exh.28 for framing additional issue. The said application was allowed on 21-01-1995 and following issue was framed -

“ 11. Do the defendants prove that the disputed land is in their possession as a protected tenant under Hyderabad Tenancy and Agriculture Land Act since their father ? ”

4] Defendants filed application at Exh.49 to refer said issue to the Tahasildar. The said application was allowed on 16-11-1999 and accordingly the issue has been referred to the Tahasildar. The Tahasildar filed report on 03-04-2000 stating that, defendants are in possession of the land but they are not declared as protected tenants. My learned Predecessor sent letter to the Tahasildar on 11-04-2000 vide Outward No.815/2000, stating that, the above explanation is without recording any finding on the above issue, the said explanation is not enough for the purpose of disposal of the suit and referred the above issue again for holding in inquiry and filing report. Thereafter, several reminders have been sent to Tahasildar but Tahasildar has not filed report as directed by this Court. The suit can not be decided without decision of Tahasildar on issue of tenancy. Therefore, no purpose will be served by permitting the plaintiff to lead evidence.

5] Considering above discussion, the application is liable to be rejected. Hence, order -

ORDER

1. The application at Exh. 61 is rejected.
2. No order as to costs.

Date :- 02/11/2019

(S. N. Bhavsar)
Jt.Civil Judge Junior Division,
Paithan.

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment/order are same, word to word, as per the original Judgment/order.

Name of the Stenographer : *Rakesh Rajmadan Pedapalli*

Court : Jt.C.J.J.D. , Paithan.

Date of Judgment : 02/11/2019.

Judgment signed by the

presiding officer on : 02/11/2019.

Judgment uploaded on : 02/11/2019.