



2025:TSHC:13035

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

**WEDNESDAY, THE SECOND DAY OF APRIL
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE SMT JUSTICE P.SREE SUDHA

CIVIL REVISION PETITION NO: 778 OF 2024

Petition Under Article 227 of the Constitution of India against the order dated 07-12-2023 in I.A.No. 109 of 2023 in O.S.No. 516 of 2022 on the file of the Court of the I Junior Civil Judge, City Civil Court, Secunderabad.

Between:

Uma Devi, D/o Late M. Narsimha, Aged about 62 years, Occ. Self-Employed, R/o. H.No.9-3-621 to 624, 2nd Street, 4th Lane, Near Gopalpuram P.S., Regimental Bazar, Secunderabad - 500 025.

...PETITIONER/ Plaintiff

AND

1. M Ravinder Babu, S/o. Late M. Narsimha, Aged about 59 years, Occ. RTC Coach Builder, Fl.No.6-1-132/54/101, Flat No.101, First Floor, Karthikeya Apartments, Walker Town, Padmarao Nagar, Secunderabad.
2. M. Sailaja, W/o. M Ravinder Babu Aged about 50 years, Occ. House wife, R/o. H.No.6-1-132/54/101, Flat No.101, First Floor, Karthikeya Apartments, Walker Town, Padmarao Nagar, Secunderabad.

...RESPONDENTS/ Defendants

IA NO: 2 OF 2024

Between:

1. M Ravinder Babu, S/o. Late M. Narsimha, Aged about 59 years, Occ. RTC Coach Builder, Fl.No.6-1-132/54/101, Flat No.101, First Floor, Karthikeya Apartments, Walker Town, Padmarao Nagar, Secunderabad.
2. M. Sailaja, W/o. M Ravinder Babu Aged about 50 years, Occ. House wife, R/o. H.No.6-1-132/54/101, Flat No.101, First Floor, Karthikeya Apartments, Walker Town, Padmarao Nagar, Secunderabad. .. Petitioners/ Respondents
1 & 2

And



2025:TSHC:13035

Uma Devi, D/o Late M. Narsimha, Aged about 62 years, Occ. Self-Employed, R/o. H.No.9-3-621 to 624, 2nd Street, 4th Lane, Near Gopalpuram P.S., Regimental Bazar, Secunderabad - 500 025. .. Respondent/ Petitioner

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 vacate the interim stay order dated 26-04-2024 in IA No. 1 of 2024 in CRP No. 778 of 2024 passed by this Hon'ble Court in the interest of justice

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 all further proceedings in O.S.No. 516 of 2022 on the file of the I Junior Civil Judge, City Civil court, at Secunderabad pending disposal of the CRP

Counsel for the Petitioner: SRI. DEVENDER KUMAR JAIN

Counsel for the Respondents: SRI K. ROHIT

The Court made the following ORDER:



2025:TSHC:13035

THE HONOURABLE SMT. JUSTICE P.SREE SUDHA

CIVIL REVISION PETITION No. 778 of 2024

ORDER:

This Civil Revision Petition is filed aggrieved by the order dated 07.12.2023 passed in I.A.No.109 of 2023 in O.S.No.516 of 2022 by the learned I Junior Civil Judge, City Civil Court, Secunderabad.

2. Heard both sides. Perused the record.
3. The Suit vide O.S.No.516 of 2022 is filed for damages of Rs.3,20,000/- by the petitioner against respondents. During the pendency of the petition, petitioner/plaintiff filed I.A.No.109 of 2023 to appoint and Advocate Commissioner to note down the actual position and physical features of the terrace, water tanks, water connections meddled for the respondents, CC cameras, removal and broken of all flower plants, closure of passage going to the terrace etc. The trial Court after hearing both sides, dismissed the application on 07.10.2023. Aggrieved by the said order, this civil revision petition is preferred.



4. Petitioner stated that she has right to enter into the terrace as per judgment in O.S.No.305 of 2008 and also in A.S.No.55 of 2009 for hassle free entry to the terrace of 2nd floor and not to meddle with water connection. Respondent No.1 removed all the flower pots and thrown away which were nursed by petitioner for more than 30 years without any hindrance. Respondent No.1 stated that all the terrace rights vested with him. The trial Court observed that as there is contradiction between statement of petitioner and respondent No.1, the said issue has to be decided in the main suit after leading evidence from both sides and accordingly dismissed the application.

5. Learned counsel for petitioner contended that as she filed suit on the ground that respondent No.1 damaged CC cameras, flower plants, meddled with water pipes of overhead water tanks, closed the way through iron ladder to the terrace by welding an iron sheet on the ladder. It is relevant to note the physical features. The contradiction between the sale deed executed in favour of the respondent No.1 and the judgment in



O.S.No.305 of 2009 is nothing to do with the appointment of the Advocate Commissioner. The trial Court also observed that there is no destructed material i.e., flower plants and the trial Court misconstrued the pleadings and thus requested the Court to set aside the order of the trial Court.

6. Admittedly, dispute is between sister and brother. It seems that all of them are residing in the same house, but he intruded into her possession and damaged flower plants and also restricted her entry into his portion, as such petitioner claimed for damages. It is for the petitioner/plaintiff to lead evidence regarding the said facts and it is a triable issue to be decided in the main suit. Defendants in his written statement stated that his parents have 9 children i.e., four sons and five daughters. The father of defendant No.1 died and his mother, brothers and sisters became legal heirs. Plaintiff is third daughter and defendant No.1 is third son to their parents. After the death of his father, his mother purchased House No.7-1-253/1 in the joint names of herself and the elder sister of the defendant No.1 through registered sale deed bearing document



No.232/1985 dated 27.05.1985. Defendant No.1, plaintiff, their mother and other brothers and sisters except elder brother of defendant No.1 used to live in the said house. Elder sister of defendant No.1 got married and was living away from the family members. Plaintiff after marriage moved to the ground floor of the said house along with her husband. Defendant No.1 purchased a flat in the 2nd floor of the building bearing No.9-3-624/3 from its lawful owner for Rs.2,00,000/- and he paid the said amount and it was also registered in his name on 30.11.2006, from then onwards he is residing in the said flat along with his wife.

7. Learned counsel for respondents contended that plaintiff has no right to go to the terrace and the defendants has rights over the terrace portion and it was mentioned in the registered sale dated 30.11.2006. It is also stated that plaintiff is elder sister of defendant No.1 and she is residing on the ground floor of two-storied building. The trial Court has rightly considered the arguments of both sides and dismissed the application.



8. It is for the plaintiff to prove her right over the terrace portion then only she is entitled for right over the terrace portion and also other factors required for granting of the damages and thus it cannot be decided by appointing an Advocate Commissioner. The trial Court has rightly considered all the aspects and this Court finds no reason to interfere with the order of the trial Court.

9. In the result, this Civil Revision Petition is dismissed confirming the order of the trial Court dated 07.12.2023 passed in I.A.No.109 of 2023 in O.S.No.516 of 2022. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

//TRUE COPY//

SD/- MOHD. ISMAIL
DEPUTY REGISTRAR

SECTION OFFICER

To

1. The I Junior Civil Judge, City Civil Court at Secunderabad.
2. One CC to SRI. DEVENDER KUMAR JAIN Advocate [OPUC]
3. One CC to SRI. K ROHIT Advocate [OPUC]

4. Two CD Copies

Kul/gh

HIGH COURT

DATED:02/04/2025

ORDER

CRP.No.778 of 2024



DISMISSING THE CIVIL REVISION PETITION

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S. B
6/15/23