

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.579 OF 2015

ORDER:

Heard the learned counsel for petitioner and the learned counsel for respondent.

2. The petitioner herein is the defendant in O.S.No.808 of 2011 on the file of the Court of III Additional Chief Judge, City Civil Court at Hyderabad (for short, trial Court). The respondents herein, who are the plaintiffs, filed the above suit for partition of the suit schedule property and delivery of separate possession of their share. The first plaintiff filed I.A.No.1672 of 2014 seeking appointment of an Advocate Commissioner for recording her evidence on the ground that she is 80 years old and suffering from ailments such as blood pressure, diabetes and cardiac problem. The said petition was opposed stating that those disease are common and earlier, the first plaintiff filed a similar petition, but the same was returned, and suppressing the same, the present petition was filed.

3. The trial Court passed the following order:

“ Heard the counsel for both the parties. The case of the petitioner is that the petitioner is a old lady and having health ailments and is not able to attend the court to give evidence. Whereas the respondent contended that it is the duty of the petitioner to approach the court to give evidence and also contended that it is inconvenient to the advocates to go to the house of the petitioner herein for cross examination. Except this there are no other serious allegations. Hence it is considered that by conceding the age and ailments of the petitioner appointment of the advocate commissioner does not cause any inconvenience to the respondents.”

4. I have carefully perused the above order. The said order was passed taking into consideration the age of the first plaintiff and the ailments suffered by her. The first plaintiff does not *prima facie* appear to have misused the provisions of

the Civil Procedure Code and, in view of the same, the impugned order passed by the trial Court cannot be found fault.

5. Accordingly, the Civil Revision Petition is dismissed. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

A.RAMALINGESWARA RAO, J

Date: 12.11.2015

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