

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

Civil Revision Petition No.1423 of 2015

ORDER:

This revision is preferred against the order passed by the VI Additional Junior Civil Judge, Visakhapatnam in I.A.No.219 of 2014 in O.S.No.576 of 2013 dated 11.03.2015.

The petitioner in the I.A. is the plaintiff in the Suit and the 1st respondent herein. He filed the said I.A. under Order XXVI Rule 9 CPC for appointment of an Advocate Commissioner to note down the physical features and measurements of the Suit schedule property with the assistance of a licensed surveyor. The Suit, in O.S.No.576 of 2013, was filed to declare that the construction made by the petitioners herein was illegal, and was liable to be demolished; a mandatory injunction was sought directing the petitioners herein to remove the illegal construction made by them in plaint-B Schedule property and, on their failure, to permit the first respondent herein to remove the same at his own expense; and a permanent injunction was sought restraining the petitioners herein, their men and agents from interfering with 1st respondent's peaceful possession and enjoyment of the plaint A-schedule property.

In the order under revision, the Court below noted the contentions of both the counsel for the petitioner and the respondents and then held that, after considering the version of both the parties, it was inclined to answer the point in favour of petitioner and against the respondents. No reasons have been assigned by the Court below for granting the relief sought for in the I.A.

While I was initially inclined to admit the CRP and grant interim stay as the order under challenge is bald and bereft of reasons, Sri A.S.C. Bose, Learned Counsel for the 1st respondent-plaintiff, would submit that, instead of admitting the CRP and keeping the revision pending on the file of this Court, the matter may be remanded to the Court below to pass a reasoned order afresh, within a specified time frame. Sri K.Jyothi Prasad, Learned Counsel for the petitioners, would

readily agree for such an order being passed.

The order under challenge is, therefore, set aside and the matter is remanded to the Court below which shall, after giving parties on either side an opportunity of being heard, pass an order afresh assigning reasons. The entire exercise, culminating in a fresh order being passed, shall be completed within three months from the date of receipt of a copy of this order. It is made clear that the only ground on which the order of the Court below is set aside is because no reasons have been assigned for granting the relief sought for in the I.A; and that this Court has not expressed any opinion either on the merits of the case or on the claim for grant or refusal of the relief sought for.

The Civil Revision Petition is, accordingly, disposed of. The Miscellaneous Petitions, if any pending, shall also stand disposed of. No costs.

(RAMESH RANGANATHAN, J)

Date:03.07.2015.
cs