

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

CIVIL REVISION PETITION NO.2599 OF 2015

Between:

A.G.V.V.N.Satyanarayana

... Petitioner

a n d

Challa Dhanalakshmi and another

... Respondents

DATE OF JUDGMENT PRONOUNCEMENT: 21st JULY, 2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE SANJAY KUMAR

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| 1. | Whether Reporters of Local newspapers may be allowed to see the judgment? | Yes/No |
| 2. | Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3. | Whether Their Lordship wish to see the fair copy of the judgment? | Yes/No |

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THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.2599 OF 2015

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ORDER
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This civil revision petition arises out of the order dated 06.04.2015 passed by the learned I Additional Junior Civil Judge, Tanuku, in E.A.No.312 of 2014 in E.P.No.13 of 2012 in O.S.No.79 of 1996. The said EA was filed by the petitioner/first judgment debtor to appoint an Advocate-Commissioner for visiting the EP schedule property and noting down the existing physical features of the total site in and around the EP schedule property and to take measurements of the total property with reference to title deeds, if necessary, and as per revenue and municipal records, in order to determine the boundaries and to note down whether the EP schedule property was not in existence and file a report.

By the order under revision, the executing Court dismissed the EA. Hence, this civil revision petition under Article 227 of the Constitution.

The contention of the petitioner/first judgment debtor was that the EP schedule was not in existence and therefore, the decree became inexecutable in the eye of law. He asserted that it was necessary to appoint an Advocate-Commissioner to verify his claim as to the non-existence of the EP schedule property. The decree holder/first respondent contested the EA by stating that it was not her claim that the same old shop rooms, which were in existence at the time of institution of the suit, were still there. She asserted that the petitioner/first judgment debtor had himself demolished the suit

schedule property so as to avoid delivery pursuant to the decree.

Heard Sri M.V.Durga Prasad, learned counsel for the petitioner/first judgment debtor, and Sri MRS Srinivas, learned counsel appearing for Sri B.S.N.Naidu, learned counsel on caveat for the first respondent/decreed holder.

Perusal of the order passed by the executing Court reflects that an Advocate-Commissioner had been appointed during the suit proceedings and his report was already on record. Further, the executing Court took note of the fact that both the parties were at consensus as to the fact that the EP schedule property was no longer in existence. The only issue was as to how the said property ceased to be in existence. The executing Court therefore rightly opined that as there was no dispute as to the essential fact, the appointment of an Advocate-Commissioner was not warranted at that stage.

This Court finds no reason to take a different view. Once it was admitted by both the parties that the EP schedule property was not in existence as on date, the consequences of the same had to be determined by the executing Court in accordance with law. The appointment of an Advocate-Commissioner at such stage was therefore wholly unnecessary.

The civil revision petition is thus devoid of merit and is accordingly dismissed. Pending miscellaneous petitions shall also stand dismissed. No order as to costs.

SANJAY KUMAR,J

21st JULY, 2015

PGS