

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION Nos.163 and 180 of 2015

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COMMON ORDER:

In view of these two Civil Revision Petitions arising out of a common cause of action, the same are being disposed of by this common order.

The petitioner herein is the decree holder in E.P.No.22/2008 in O.S.No.206/1990 on the file of the Court of the learned I Additional Junior Civil Judge, Bhimavaram. The said suit was filed against respondent No.1 for permanent injunction in respect of Ac.0.22 cents of land in R.S. No.372/36 situated in Srungavruksham Village, Palakoderu Mandal, West Godavari District. E.P. No.22/2008 was filed by the petitioner herein. In the said E.P., E.A.No.624/2008 was filed seeking to remove the obstructions caused by the judgment debtors and to send them to Civil Prison through process of Law. The said E.A. was dismissed on 19.10.2009 and C.R.P.No.5084/2009 was preferred before this Court. The said C.R.P. was allowed on 15.11.2010 with a liberty to the petitioner to file an application for appointment of Advocate Commissioner. Accordingly, an Advocate Commissioner was appointed and he submitted a report on 28.03.2013. Now, the applications in E.A. Nos.311/2011 and 95/2014 are filed for appointment of a Senior Most Survey knowing Advocate Commissioner with the assistance of concerned Mandal Surveyor to measure/demarcate, fix boundaries of the E.P. schedule property and also for fixation of boundary stones on all four sides corners of the E.P. schedule property. The said applications were dismissed on the ground that the Advocate Commissioner was appointed and also submitted his report.

Now, the learned counsel for petitioner submits that to the report filed by the Advocate Commissioner on 28.03.2013, the petitioner as well as the respondents filed the objections and the lower Court should have considered those objections before dismissing the present applications for appointment of another Advocate Commissioner.

The order passed by the lower Court does not disclose whether the parties have filed their objections or not. If the parties have filed their objections, the

lower Court should have taken those objections into consideration in the light of the report submitted by the previous Advocate Commissioner on 28.03.2013, and passed an appropriate order, if there was no need for appointment of a second Advocate Commissioner. In the above circumstances, while upholding the impugned orders passed by the learned I Additional Junior Civil Judge, Bhimavaram, the said learned Additional Junior Civil Judge is directed to consider the objections filed by the parties in the light of the report submitted by the Advocate Commissioner on 28.03.2013, and if the Court feels that those objections were tenable and the Advocate Commissioner had not submitted the report in accordance with warrant, it is open to the learned I Additional Junior Civil Judge, Bhimavaram, to appoint another Advocate Commissioner. If the Court below comes to the conclusion that there is no necessity for appointing another Advocate Commissioner, it can pass an order to that effect and proceed further in E.P.No.22/2008 in accordance with the directions contained in C.R.P. No.5084/2009 dated 15.11.2010.

Accordingly, these Civil Revision Petitions are dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in these Civil Revision Petitions shall stand closed.

A.RAMALINGESWARA RAO, J

02.12.2015

MVA