

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION NO.2606 OF 2015

ORDER:

This Civil Revision Petition is filed against the order, dated 10-03-2015 in I.A.No.120 of 2012 in O.S.No.114 of 2011 on the file of the Additional Senior Civil Judge, Ongole.

2. Petitioner herein is the 1st defendant, whereas the 1st respondent herein is the plaintiff and respondents 2 and 3 are the defendants 2 and 3 before the trial Court.

3. Petitioner herein (1st defendant) filed the above interlocutory application under Order XXVI Rule 9 CPC to appoint another Advocate Commissioner to answer the objections and also work memos of the petitioner with the assistance of Ongole Municipal Surveyor and Mandal Surveyor of S.N.Padu by re-visit of schedule property.

4. O.S.No.114 of 2011 was filed for declaration of title and recovery of possession. In the said suit, an Advocate Commissioner was appointed to verify the physical features of the respondents' land and submit a report. Accordingly, the Advocate Commissioner visited the site and submitted his report. The petitioner herein filed objections to the said report and the consideration of the report of the Advocate Commissioner is pending before the trial Court. At that stage, the petitioner herein filed the present interlocutory application seeking appointment of another Advocate Commissioner in the light of the objections filed by him.

5. The trial Court after considering the material on record, dismissed the interlocutory application, vide impugned order, dated 10-03-2015. Aggrieved thereby, the present revision is filed.

6. The trial Court rightly commented that without setting aside the earlier report of the Advocate Commissioner, another Advocate Commissioner cannot be appointed. The trial Court also observed that even if the Advocate Commissioner is examined, the Court is not in a position to know whether the report of the Advocate Commissioner was within the four corners of the warrant entrusted to him or not. In view of

proper consideration of scope of the application filed by the petitioner in the trial Court, this Court is not inclined to interfere with the said order.

7. Accordingly, the Civil Revision Petition is dismissed. However, this order will not prevent the petitioner from taking appropriate steps in accordance with law. No order as to costs. Miscellaneous petitions, if any pending in this revision shall stand closed.

A.RAMALINGESWARA RAO, J

DATED: 23-12-2015

Hsd