

HON'BLE SRI JUSTICE R. SUBHASH REDDY

CIVIL REVISION PETITION No.113 of 2015

ORDER :

This civil revision petition is filed under Article 227 of the Constitution of India, by the defendant in O.S.No.155 of 2011 on the file of Senior Civil Judge, Nuzvid, aggrieved of the order dated 02.12.2014, passed in I.A.No.699 of 2014.

2. The aforesaid suit is filed for recovery of money by the respondent-Corporation towards arrears of rent. There is an agreement between the parties for construction of mulgies by the petitioner on the land belonged to the respondent-Corporation and to pay rents. On the ground that there are arrears of rent to the tune of Rs.6,18,083/-, suit is filed for recovery, by the respondent-Corporation and trial is also commenced in the suit. At that stage, the aforesaid application in I.A.No.699 of 2014 is filed by the defendant for appointment of Advocate-Commissioner to note down the physical features of the property and the same is dismissed by the trial Court by impugned order, as against the same, this revision is filed.

3. In this revision, it is contended by the learned counsel for petitioner that in view of some constructions obstructing the business of the petitioner, the petitioner has filed I.A.No.699 of 2014 for appointment of Commissioner to note down the physical features of property. In support of his contentions, the learned counsel has placed reliance on a judgment of a learned Single Judge of this Court in **Shaik Zareena Kasam Vs. Patan Sadab Khan & others**^[1]. On the other hand, it is submitted by the learned counsel appearing for respondent that the relief sought for

by the petitioner in I.A.No.699 of 2014 for appointment of Advocate-Commissioner, would only amount to collection of evidence on her behalf, and as such, the trial Court has rightly rejected the said application.

4. In this case, it is not in dispute that the suit is filed by the respondent-Corporation only for recovery of arrears of rent. If it is the case of petitioner that she could not do the business in view of constructions that have come up, due to which, she could not pay the rents, it is for her to lead evidence to that effect in the suit, but only for the purpose of gathering evidence, no Commissioner can be appointed. Whether appointment of Advocate-Commissioner is necessary or not, has to be decided depending on the factual disputes in each case. In that view of the matter, having regard to the fact situation in the present case, the judgment in **Shaik Zareena Kasam's** case (supra) also would not render any assistance to the petitioner.

5. For the aforesaid reasons and in view of the reasons recorded by the trial Court, I do not find any ground to interfere with the impugned order. The revision is accordingly dismissed. No order as to costs. Pending miscellaneous applications, if any, shall stand closed.

R. SUBHASH REDDY, J

6th February 2015

ajr

[\[1\]](#) 2011 (4) ALD 231