

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.3892 of 2015

ORDER :

The petitioner-Tenant filed ATC.No.04 of 2015 on the file of Special Officer, Tenancy (Junior Civil Judge), Andhra Pradesh (Andhra Area), Tenancy Act, Tadepalligudem, West Godavari District, seeking a declaration that she is a cultivating tenant of the petition schedule property and for a consequential permanent injunction.

2. Counter was filed in the said ATC stating that the schedule property is not a cultivable land and no irrigation took place during the last 15 years. It was also stated that no crops were raised and it was used only as a grazing land. In those circumstances, the petitioner filed I.A.No.1108 of 2015 for appointment of Advocate Commissioner to note down the physical features of the schedule land. The said application was dismissed by the Tribunal holding as follows :

“Heard the respondent counsel and perused the petition averments. As could be seen the same, this court is of the opinion that the reason sought by the petitioner for appointment of advocate commissioner is certainly amount to collection of evidence. As per the settled legal position the Advocate Commissioner shall not be appointed for collection of evidence. Whether the petition schedule property is a cultivable land or a barren land is a fact in issue which has to be established by both the parties to the extent of their respective pleadings by way of adducing cogent evidence. As such, this court is not inclined to allow this petition as prayed by the petitioner as it is devoid of merits.”

3. Challenging the same, the present Civil Revision Petition is filed.

4. Learned counsel for the petitioner submits that in view of the denial of agricultural activity, the petitioner filed an application for appointment of Advocate Commissioner.

5. Learned counsel for the respondent on the other hand submits

that a perusal of the boundaries mentioned in ATC when compared with the photographs filed along with the I.A., clearly shows that those photographs do not relate to the petition schedule land at all.

6. Be that as it may, the Advocate Commissioner can be appointed in respect of petition schedule land for observing the physical features of land as on the date of his visit.

7. In view of the same, the order in I.A.No.1108 of 2015 dated 12.08.2015 is set aside and I.A.No.1108 of 2015 is allowed and remanded to the Special Officer, for appointment of Advocate Commissioner to note down the physical features of the ATC schedule land.

8. Accordingly, the Civil Revision Petition is allowed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Revision shall stand closed.

A. RAMALINGESWARA RAO, J

23rd December, 2015
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DATED : 23.12.2015

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