

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

CIVIL REVISION PETITION NO.4426 OF 2015

DATED 27th NOVEMBER, 2015

Between:

Midede Somalamma and another. .. Petitioners

and

Errinki Sri Venkata Narayana

.. Respondent

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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CIVIL REVISION PETITION NO.4426 OF 2015

ORDER

The defendants in O.S.No.107 of 2012 on the file of the learned Principal Junior Civil Judge, Palakol, are the petitioners. They are aggrieved by the dismissal of their I.A.No.768 of 2015 filed in the suit for appointment of an Advocate-Commissioner to note the existing features of the suit schedule property and to identify their thatched house by measurement and with the assistance of the Mandal Surveyor.

Heard Sri P.Durga Prasad, learned counsel for the petitioners-defendants and Sri SVR Subrahmanyam, learned counsel for the respondent-plaintiff.

Perusal of the order under revision reflects that the trial Court was of the opinion that appointment of an Advocate-Commissioner at this stage would only result in collection of evidence as the suit proceedings are yet to commence and the burden of proof was on the plaintiff in the suit to establish his case in the first instance. The trial Court further observed that appointment of an Advocate-Commissioner for noting the physical features could not be permitted at this stage. This observation clearly indicates that in the event a real need arises, the trial Court is not averse to appointment of an Advocate-Commissioner. It is for the petitioners-defendants to make out such a case at a later point of time during the suit proceedings, if warranted.

As rightly stated by the trial Court, no cause was made out at this stage of the suit to seek appointment of an Advocate-Commissioner. This Court therefore finds no irregularity in the order passed by the trial Court warranting interference under Article 227 of the Constitution.

Civil Revision Petition is accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed the light of this final order. No order as to costs.

SANJAY KUMAR, J

27th NOVEMBER, 2015

PGS