

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

C.R.P.No.4893 of 2014

ORDER:

This Revision Petition is filed challenging the Order dt.31-10-2014 in O.S.No.400 of 2008 of X Additional Chief Judge, City Civil Court, Hyderabad.

2. Petitioner herein is 2nd defendant in the above suit. The respondent Nos.1 and 2 filed the suit against the petitioner and 3rd respondent for partition of certain properties and other reliefs. Written Statement was filed opposing the suit claim.

3. Affidavit in lieu of chief examination was filed by P.W.1 which was accepted and admitted in evidence. P.W.1 also marked Exs.A-1 to A-6 documents. At that stage learned counsel for the petitioner prayed for recording evidence by an advocate commissioner. The Court below passed a docket order dt.31-10-2014 stating that the learned counsel for the petitioner suggested Sri Mohammed Samiuddin, advocate, to record the evidence of P.W.1 and therefore be appointed that advocate as Advocate Commissioner to record the evidence of P.W.1.

4. Challenging the same, this Revision Petition is filed.

5. Learned counsel for the petitioner contends

that the petitioner had not consented to the appointment of the said Advocate Commissioner as recorded in the docket order dt.31-10-2014; and therefore the Court below erred in recording that the learned counsel for the petitioner had given such a consent and therefore the impugned order be set aside.

6. The petitioner in this Revision is disputing an event which took place before the trial Court and is contending that the statement in the impugned order of the Court below, that the petitioner's counsel had agreed for the appointment of Advocate Commissioner, is not correct. Therefore, the appropriate remedy for the petitioner is to file review petition before the said Court and bring to the notice of the said Court this fact. It is not open to the petitioner to canvas the correctness of the order before this Court on the ground that the Court below has wrongly recorded his consent in the impugned order.

7. Therefore, the petitioner is at liberty to file Review before the Court below raising the same contentions as were raised in this Revision. It is made clear that this Court has not expressed any opinion on the issue.

8. Granting liberty as above, this Civil Revision Petition is dismissed. No costs.

9. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 15-06-2015

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