

HON'BLE SRI JUSTICE R.SUBHASH REDDY

CIVIL REVISION PETITION No.586 of 2015

ORDER :

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/defendant No.1 aggrieved by the order and decree dated 05.11.2014 in I.A.No.604 of 2014 in I.A.No.110 of 2014 in O.S.No.289 of 2007 passed by the III Additional Senior Civil Judge, Vijayawada, Krishna District, dismissing the application filed by him under Section 151 of C.P.C., seeking to re-entrust the warrant to the Advocate-Commissioner to record the cross-examination of Finger Print Expert.

2. The petitioner is defendant No.1 in the aforesaid suit filed by the 1st respondent/plaintiff for partition of suit B-Schedule properties. In the said suit, on an application in I.A.No.110 of 2014 filed by the petitioner/defendant No.1, an Advocate-Commissioner was appointed to record the chief and cross-examination of Finger Print Expert, to whom the disputed document was sent for his opinion at the request of the petitioner/defendant No.1 himself. The said Advocate-Commissioner, after execution of the warrant, has filed his report. At that stage, the petitioner/defendant No.1 has filed the present application in I.A.No.604 of 2014 under Section 151 of C.P.C., for re-entrustment of the warrant to the Advocate-

Commissioner to record the cross-examination of Finger Print Expert. The said application was resisted by the 1st respondent/plaintiff by filing counter. The Court below, after considering the evidence and the material on record, dismissed the said application through the impugned order dated 5.11.2014. Hence, the present civil revision petition.

3. Heard learned counsel for the petitioner and perused the impugned order.

4. It is to be seen that on an application in I.A.No.110 of 2014 filed by the petitioner/defendant No.1 himself, the Advocate-Commissioner has recorded the chief and cross-examination of the Finger Print Expert and filed his report. At that stage, the present application in I.A.No.604 of 2014 is filed to re-entrust the warrant to the Advocate-Commissioner, which is not permissible.

5. It is true that the Finger Print Expert can be cross-examined. But, when at the instance of the petitioner/defendant No.1 himself, the Expert was examined on commission and cross-examined by the other side, there is no question of re-entrusting the warrant to the Advocate-Commissioner for cross-examination of the Expert, who is his own witness. If there are any objections on the opinion of the Expert, it is well settled that the opinion of the Expert is not a conclusive one. Further, even in the affidavit filed in support of the application, no reasons are assigned about the purpose

of cross-examination of the witness.

6. Though the learned counsel for petitioner/defendant No.1 has relied upon a decision of this Court in N. SREENIVASULU v. N. PRAKASH REDDY AND ANOTHER^[1], the proposition laid down in the said judgment do not support the case of the petitioner/defendant No.1. In view of the reasons assigned by the Court below, I do not find any reason to interfere with the impugned order passed by the Court below.

7. For the aforesaid reasons, this civil revision petition is devoid of merits and is accordingly dismissed. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH

REDDY
27.02.2015.
Msr

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