

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No.4393 of 2016

ORDER:

The present Civil Revision Petition is filed under Article 227 of the Constitution of India aggrieved by the order dated 22.08.2016 passed in I.A.No.326 of 2016 in O.S.No.8 of 2007 by the IV Additional District Judge, Tirupati, wherein the petition filed by the revision petitioner under Order XXVI Rule 9 r/w. Section 151 of the Code of Civil Procedure seeking appointment of Advocate Commissioner to measure the suit schedule property after excluding the property of the petitioner covered under Exs.A.2 and A.3 was rejected.

Heard and perused the material on record.

The contention urged by the petitioner before the Court below in seeking appointment of Advocate Commissioner is that the plaintiff has no land as claimed in the plaint. The said contention was rejected by the Court below mainly on the ground that the case was coming up for arguments. Challenging the same, present revision is filed.

As seen from the record, initially, I.A.No.31/2007 was filed before the Court below wherein a Court Commissioner was appointed to measure the total extent of suit land. Initially, the Court Commissioner visited the suit land and identified the same with the help of both the parties. However, for the sake of assistance of Surveyor, the inspection was adjourned to 26.11.2011. On 26.11.2011 as the Surveyor was not present, the Court Commissioner returned the warrant of Commission to the

Court below. As such, the Court below closed the said I.A. However, without raising any objection or questioning the same, petitioner again filed another application in I.A.No.326 of 2016 seeking the very same relief that too at the time when the suit was posted for arguments. As such, the Court below rightly rejected the request of the petitioner and I see no irregularity or illegality in the impugned order.

Therefore, the Civil Revision Petition is dismissed as devoid of merits. There shall be no order as to costs.

Consequently, the miscellaneous petitions pending in this revision, if any, shall stand closed.

30.09.2016
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JUSTICE C. PRAVEEN KUMAR