

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.2460 OF 2016

ORDER

This civil revision petition filed under Article 227 of the Constitution is amenable to disposal at the admission stage without notice to the other side in the light of the peculiar circumstances of the case.

The suit, O.S.No.495 of 2016, was filed by the petitioner herein for partition of the suit schedule properties into 48 equal shares and for allotment of five such shares to him. By way of I.A.No.387 of 2016 filed in the said suit, the petitioner sought appointment of an Advocate Commissioner to visit the petition schedule properties for taking possession of the documents, account books and other papers pertaining to the joint family properties under an inventory for the purpose of submitting the same to the Court. By order dated 29.04.2016, the trial Court issued urgent notice to the respondents. Aggrieved thereby, the petitioner/plaintiff approached this Court by way of the present revision.

By order dated 12.05.2016, this Court granted interim suspension of the order dated 29.04.2016 passed by the trial Court. The said order is extended thereafter on 26.05.2016 till 10.06.2016.

Sri M.R.K.Chakravarthy, learned counsel for the petitioner/plaintiff, would contend that the very purpose of seeking appointment of an Advocate Commissioner would be lost if the respondents in the said I.A. are put on notice. This is because the endeavour of the petitioner/plaintiff, by way of the subject I.A., is to secure all the details of the joint family properties by getting the Advocate Commissioner to seize all the relevant documents, account books and other papers pertaining to the joint family properties available at the petition schedule properties.

This Court finds merit in the contention of the learned counsel. The purpose of filing the subject I.A. would be entirely lost in the event the respondents are put on notice, as the element of surprise would be

lost and there would be a strong possibility of secreting of relevant documents.

It is for the trial Court to consider the material filed in support of the I.A. and decide as to whether the petitioner/plaintiff made out a case for appointment of an Advocate Commissioner as prayed for.

The Civil Revision Petition is accordingly allowed setting aside the order dated 29.04.2016 passed by the trial Court in the subject I.A. The trial Court shall consider the subject I.A. on its own merits and in accordance with law and pass appropriate orders thereon without ordering notice to the respondents. Pending miscellaneous petitions shall stand closed. No order as to costs.

Office is directed not to mark a copy of this order to the respondents.

SANJAY KUMAR, J

3rd JUNE, 2016

Note: Issue C.C. by 07.06.2016.
B/o Svv