

HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL REVISION PETITION No.202 of 2012

ORDER:

This revision is filed challenging order dated 30.09.2011 in I.A.No.1268 of 2007 in I.A.No.1113 of 2007 in O.S.No.2121 of 2007 on the file of VIII Junior Civil Judge, City Civil Court, Hyderabad.

2. Plaintiff in O.S.No.2121 of 2007 filed the above referred I.A.No.1268 of 2007 for appointment of advocate-Commissioner to note down the physical features of the eastern wall of the suit schedule house and the constructions carried thereon and to submit a report. The Court below on a consideration of contentions and rival contentions of parties therein, allowed the petition and appointed an advocate-Commissioner to note down the physical features of eastern wall of the suit schedule house bearing No.20-5-289, situated at Qazipura, Shalibanda, Hyderabad. Challenging the said order, present revision is preferred by defendant Nos.1, 2 and 4.

3. Heard arguments.

4. Advocate for revision petitioner submitted that 4th defendant i.e., 1st petitioner herein though he was a party to the suit, he was not arrayed as a party to the petition for appointment of advocate-Commissioner and that appointment of advocate-Commissioner was made behind the back of 1st petitioner herein. It is submitted that even GHMC-3rd defendant i.e., 2nd respondent herein was also not made a party to the petition for appointment of advocate-Commissioner.

5. On the other hand, advocate for respondent No.1/plaintiff submitted that in pursuance of the order of trial Court, advocate-Commissioner has already visited the suit schedule property on 26.12.2011 and filed his report noting down his observations with

regard to suit schedule property.

6. Revision petitioner Nos.2 and 3 are respondents in the petition for appointment of advocate-Commissioner and as seen from the Commissioner's report, learned advocate-Commissioner issued notice to the counsel for respondents in that petition about his proposed visit and respondents therein took time on the ground that they are intending to file C.R.P. As seen from the Commissioner's report, advocate-Commissioner proceeded with execution of commission warrant as there was no stay granted in C.R.P. Since advocate-Commissioner has already executed warrant, the present revision has become infructuous. However, revision petitioners are at liberty to file objections to the Commissioner's report, if they are not satisfied with findings of the advocate-Commissioner. They may also take steps for re-entrustment of warrant in accordance with law after final orders are passed in I.A.No.1268 of 2007 considering the objections filed, if any.

7. With these observations, this revision is dismissed.

8. Miscellaneous Petitions, if any, shall stand dismissed. No costs.

S. RAVI KUMAR, J

1st February 2016.

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