

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

Civil Revision Petition No.1397 of 2016

ORDER:

This revision, under Article 227 of the Constitution of India, is preferred against the order passed by the I Additional Senior Civil Judge, City Civil Court, Hyderabad in I.A.No.8 of 2015 in I.A.No.1141 of 2012 in O.S.No.1365 of 2007. The petitioners herein are the plaintiffs in O.S.No.1365 of 2007, and the petitioners in I.A.No.8 of 2015. They are aggrieved by the aforesaid order passed by the Court below rejecting their request to recall PW.1 and to mark the documents.

By its order in I.A.No.1141 of 2012, the Court below had appointed an advocate-commissioner to examine PWs.1, 2 and 3. On the ground that the advocate-commissioner had not recorded their objections, I.A.No.8 of 2015 was filed by the petitioners herein. In the order under revision, the Court below observed that the advocate-commissioner was entrusted with the work of enquiry; if the petitioners had any doubt as to how the enquiry was made, it was for them to seek instructions from the Court, or the parties had to wait till the Commissioner filed his report, and thereafter put forth their objections; and, if necessary, a warrant could be re-entrusted to him to answer the objections and to modify the report. The Court below held that the petition could not be entertained at that stage.

Sri R.A.Achuthanand, Learned Counsel for the petitioners, would submit that the order passed by the Court below would cause needless delay in Court proceedings; the Court below ought to have directed the advocate-commissioner to cause an enquiry afresh; and, in such circumstances, the order under revision necessitates being set aside.

I must express my inability to agree. The jurisdiction which this Court exercises under Article 227 of the Constitution of India, is only where the order under revision suffers from any patent illegality or substantial injustice is caused to the person invoking its jurisdiction. Neither does the order passed by the Court below suffer from any patent illegality nor can the petitioners be said to have suffered substantial injustice thereby.

In the order under revision, the Court below made it clear that it was always open to the parties to put forth their objections after the advocate-

commissioner filed his report and, if need be, the Court would pass necessary orders at that stage. In effect, the application was dismissed as pre-mature. No substantial injustice can be said to have been caused to the petitioners thereby. Suffice it to make clear that this order shall not preclude the petitioners from putting forth their objections after the advocate-commissioner files his report in the Court.

Subject to the above observations, the Civil Revision Petition fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

RAMESH RANGANATHAN, J.

Date:22.07.2016.

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