

THE HON'BLE SRI JUSTICE S.V.BHATT

CIVIL REVISION PETITION No.1881 OF 2016

ORDER:

Heard learned counsel for petitioner and respondents.

2. The revision is directed against the order dated 29.02.2016 in I.A.No.450 of 2015. The respondents herein filed I.A.No.450 of 2015 under Order 26 Rule 9 read with Section 151 of the Civil Procedure Code for appointment of Advocate Commissioner for inspection, measuring and noting down the physical features of plaint schedule property.

3. The trial Court through the impugned order in the revision has accepted the prayer. Hence, the revision petition.

4. Mr. M. Ravindra, appearing for petitioner, contends that the order impugned in the revision, by any stretch of liberal consideration, does not reflect either application of mind by the trial Court much less application of principles of law laid down in the decisions adverted to in the order under revision. In other words, briefly stated, his grievance is that though the order runs into a few pages, it is bereft of reasoning and hardly any ground is made out and merely on the ground that no prejudice is occasioned to revision petitioner, Advocate Commissioner cannot and could not have been appointed at this stage of the matter.

5. Mr. P. Gangarami Reddy, appearing for respondents, however, tried to persuade this Court by referring to other material placed along with the revision petition to contend that even if the order under revision does not give reasons; the same can be appreciated from the totality of circumstances. He, however, submits that if this Court is of the view that the said material cannot and ought not to be looked into, the matter can be remanded to the trial Court for consideration afresh.

6. I am afraid, this Court cannot and ought not step into the shoes of the trial Court in re-appreciating the material that weighed with the trial Court for passing the order under revision. The order impugned speaks for itself to the required extent and there ought not to be abstract application of principles of law from the decisions relied upon by the trial Court.

On the short ground that the order impugned suffers from lack of reasons, the civil revision petition is allowed and the matter is remanded to the trial Court for disposal in accordance with law within eight (8) weeks from the date of receipt of a copy of this order.

As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

S. V. BHATT, J

April 18, 2016
DSK