

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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C.R.P.No.143 of 2016

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is preferred against the order passed by the VI Additional District Judge-cum-Sessions Judge, Mahila Court, Visakhapatnam in I.A.No.113 of 2015 in O.S.No.425 of 2014 dated 01.05.2015. The petitioner herein is the plaintiff in the Suit, and the petitioner in the I.A. The said I.A. was filed under Order XXVI Rule 9 C.P.C. requesting the Court to appoint an Advocate-Commissioner to measure the physical features of plaint-A Schedule property.

The petitioner herein is the daughter of the 1st respondent, and the sister of respondents 2 and 3. She filed the Suit seeking partition of the suit schedule property. She filed I.A.No.559 of 2014 seeking temporary injunction restraining respondents 1 to 3 from creating a charge, and not to mortgage or alienate the suit property or make any construction thereupon. Urgent notice was issued by the Court below. It is at that stage that the present application came to be filed.

In the order under revision, the Court below held that there was no dispute about the existence of a three storied building in plaint-A schedule property; this was admitted by the respondents; it was also their case that they had let out rooms in plaint-A schedule property, and the tenants had occupied the same; when the existence of a three storied building, in plaint-A schedule property was not in dispute, there was no need to appoint an Advocate Commissioner or to measure the suit property; the petition was wholly misconceived; and when the existence of a building in plaint-A schedule property is not in dispute, the prayer of the petitioner to appoint an Advocate Commissioner, was misconceived.

Sri P.Durga Prasad, learned counsel for the petitioner, would reiterate the very same submissions which were urged before the Court below. Learned counsel would submit that the respondents are in the process of alienating the suit schedule property.

Any such action, on the part of the respondents, can only be restrained in the application filed by the petitioner in I.A. No.559 of 2014 for

The C.R.P. fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

18th March 2016.
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Date: 18.03.2016

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