

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

CIVIL REVISION PETITION NO.5959 OF 2016

DATED:23-12-2016

Between:

Madamalla Ramana
and others

... Petitioners

And

Hota Janaki
and others

... Respondents

COUNSEL FOR THE PETITIONERS: Mr. M.V. Subba Reddy,
for Mr. A.S.C. Bose

COUNSEL FOR THE RESPONDENTS: -



THE COURT MADE THE FOLLOWING:

ORDER:

This civil revision petition arises out of order dt.13.10.2016 in I.A. No.640 of 2016 in O.S. No.42 of 2010 on the file of the Senior Civil Judge, Yellamanchili.

I have heard the learned counsel for the petitioners and perused the record.

Respondent Nos.1 and 2 have filed the aforementioned suit for declaration of their right and title over the suit schedule property and for consequential relief of delivery of vacant possession of the same. In the suit, the petitioners, who are the defendants in the suit, filed I.A. No.640 of 2016 under Order XXVI Rule 9 of the Code of Civil Procedure, 1908 (CPC) for appointment of an Advocate Commissioner for ascertaining the age of the building in the suit schedule property. This application was dismissed by the lower Court.

In my opinion, in an application filed under Order XXVI Rule 9 of CPC in any suit the Court may appoint a commission *inter alia* for conducting local inspection for the purpose of elucidating any matter in dispute. In the suit filed by the respondents, the age of the building is not a matter in dispute and therefore it is wholly unnecessary to ascertain the age of the building. Hence, the lower Court has rightly dismissed the application.

I therefore do not find any merit in this civil revision petition and the same is accordingly dismissed.

As a sequel to dismissal of the civil revision petition, C.R.P.M.P. No.7791 of 2016 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

23-12-2016

bnr

