

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

CIVIL REVISION PETITION No.5553 of 2015

ORDER:

Respondent No.1, who is stated to have been filed I.A.No.1338 of 2013 in O.S.No.189 of 2012, is the contesting party. Respondent No.2 is the husband of the petitioner, but his whereabouts are stated to be not known. Petitioner states that aggrieved by preliminary decree, dated 18.06.2013 passed by the learned Senior Civil Judge, Srikalahasti in O.S.No.189 of 2012, she has filed appeal before the learned III Additional District Judge, Tirupati. Along with the said appeal, she has also filed I.A.No.892 of 2015 under Section 5 of the Limitation Act, seeking condonation of delay in filing such appeal, and in the said I.A., respondent No.1 sought time for filing counter. In the meanwhile, respondent No.1 filed I.A.No.1338 of 2013 for appointment of an Advocate Commissioner for partition of suit schedule property into two equal shares. The trial Court allowed the said I.A. by order, dated 03.12.2015 appointing Advocate Commissioner to demarcate the shares of the parties with metes and bounds. Aggrieved by the same, the petitioner has filed the present revision petition.

Learned counsel for the petitioner contends that when the Appeal Suit is pending, it is not justified for the first respondent to press for final decree and for appointment of Advocate Commissioner to divide the property with metes and bounds.

None appeared for Respondent No.1.

It is no doubt true that the Appeal Suit filed along with I.A.No.892 of 2015 is pending before the lower appellate Court. Hence, as per usual practice followed by this Court, I deem it appropriate to direct that passing of final decree shall remain stayed for a period of six months. However, other proceedings relating to passing

of such final decree may go on. The petitioner shall inform the trial Court by way of an affidavit about the orders, if any, to be passed by the lower appellate Court in the appeal filed by the petitioner as referred to above and such affidavit be filed within the period stipulated above, and subject to the orders of the lower appellate Court as above, the trial Court shall proceed with the final decree proceedings.

The Civil Revision Petition is allowed to the extent indicated above.

Miscellaneous Petitions, if any pending in this Civil Revision Petition shall stand closed. No order as to costs.

VILAS V.AFZULPURKAR, J

29th JANUARY, 2016.

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