

THE HON'BLE SRI JUSTICE S.V.BHATT

CIVIL REVISION PETITION No.2605 of 2016

ORDER:

Heard Mr. J. Janaki Rami Reddy for petitioner.

2. Petitioners assail docket order dated 21.04.2016 in I.A.No.111 of 2015.

3. From the material available on record, the following admitted circumstances can be set out.

On 09.04.2015, the trial Court allowed the prayer of revision petitioner for appointment of Advocate Commissioner for inspection of suit schedule property, to note down physical features, if necessary, with the assistance of Surveyor. Admittedly, the said order has become final. For the reasons not reflected from the docket sheet of the suit, it is clear the trial Court granted innumerable adjournments to enable the learned Advocate Commissioner to file report.

On 21.04.2016, the trial Court has dismissed the application by holding thus:

“C.R. Report not yet filed. Hence, the petition is dismissed.”

4. After perusing the material on record and on being satisfied that the trial Court, without properly appreciating the next step that is required to be taken in the event there is continued inaction on the part of the Advocate Commissioner in filing the report, has passed the order under revision. I am of the view that at no stage the respondents herein prayed for dismissal of the application for want of report. The jurisdiction exercised by the trial Court suffers from patent illegality. The order dated 21.04.2016 is set aside. I.A.No.111 of 2015 is restored. The trial Court is directed to consider appointment of another Advocate Commissioner for the purpose, which was accepted vide order dated 09.04.2015 and the Advocate Commissioner may be directed to file the report within six (6) weeks from the date of entrustment of warrant.

The civil revision petition is ordered as indicated above.

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

S. V. BHATT, J

June 10, 2016
DSK