

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

C.R.P. No. 2548 OF 2016

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ORDER :
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This Civil Revision Petition is filed against the order dated 12.02.2016 in I.A.No.1085 of 2015 in O.S.No.1 of 2010, wherein the Court below allowed application appointing an Advocate Commissioner to record cross-examination of D.Ws.4 and 5.

Heard learned counsel for the petitioner, who submits that when complicated questions regarding title are involved, the Court below could not have appointed an Advocate Commissioner for recording the cross-examination of a witness. He would further contend that the Court below had erroneously appointed Advocate Commissioner. In support of his contention, he relied on the judgment reported in **Salem Advocate Bar Association, Tamil Nadu v. Union of India**^[1] and also taken me through a copy of plaint and written statement.

Merely because some denial is there in the written statement, it cannot be said that conflict questions of title are involved in the suit. Even in the counter affidavit filed before the Court below such plea is not taken by the revision petitioner. The Court below, after considering the case of the revision petitioner, rightly passed impugned order appointing an Advocate Commissioner for recording the evidence of D.Ws.4 and 5 and no infirmity is brought to my notice.

Even according to the judgment relied on by the learned counsel for the petitioner in **Salem Advocate Bar Association, Tamil Nadu v. Union of India (supra)**, it is the discretion of the Court in appointing Advocate Commissioner for recording evidence. In the above referred judgment, no law is laid down stating that no Advocate Commissioner can be appointed for recording the evidence of witnesses in all the partition suits. The Court below rightly exercised the jurisdiction for appointment of Advocate Commissioner for recording the evidence. I do not see any infirmity in the order passed by the Court below warranting interference of this Court by exercising the power of review under Article 227 of the

Constitution of India.

Accordingly, CRP is dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in this petition shall stand dismissed.

10.06.2016.
kvs

A.RAJASHEKER REDDY, J

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

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Date: 10-6-2016

kvs

[\[1\]](#) (2005) 6 Supreme Court Cases 344