

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

C.R.P. No.179 of 2016

Between:

Medepalli Prema Vathi and another

...

Petitioners

And

Chappidi Venugopal and others

...

Respondents

JUDGMENT PRONOUNCED ON 15.02.2016

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THE HON'BLE SRI JUSTICE G. CHANDRAIAH

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? :
2. Whether the copies of judgment may be
marked to Law Reporters/Journals. :
3. Whether their Ladyship/Lordship wish to
see the fair copy of the Judgment? :

THE HON'BLE SRI JUSTICE G. CHANDRAIAH

C.R.P. No.179 of 2016

ORDER:

This revision petition has been filed aggrieved by the order dated 12.11.2015 passed in I.A. No.144 of 2015 in O.S. No.142 of 2012 by the Principal Junior Civil Judge, Gudivada.

Revision petitioners are the defendants 1 and 2 and the respondents 1 and 2 are the plaintiffs and the 3rd respondent herein is the 3rd defendant in O.S. No.142 of 2012.

Brief facts of the case are that the plaintiffs filed I.A. No.144 of 2015 in O.S. No.142 of 2012 under Order 26 Rule IX of CPC praying the Court below to appoint an Advocate Commissioner to measure the land in an extent of 229.2 square yards with the help of surveyor as per the extents mentioned in assigned patta in favour of one Smt. Daram Baby and one sale deed dated 16.04.2003 executed by one Smt. P.P.Rajyam and to note physical features particularly noting the eastern wall of defendants 1 and 2 and eastern tatty fencing of Smt. D.Lalitha Kumari, which is on North of the schedule property towards east when compared with eastern wall. The Court below vide its impugned order allowed the said application. Assailing the same, the defendants 1 and 2 filed the present revision petition.

The learned counsel appearing for the revision petitioners, *inter alia*, would submit that the Court below erred in allowing the said application holding that appointment of an advocate commissioner would not cause any prejudice to the revision petitioners.

As could be seen the plaintiffs have filed a suit to declare them as absolute owners of the suit schedule property and consequential relief of injunction restraining the defendants 1 and 2 and to remove the articles placed by them in the schedule property and also the 3rd defendant to remove the pillar at point E as per the plaint plan. Whereas, the defendants 1 and 2 contended that the schedule property is not the part and parcel of plaintiffs' site and it is a passage and they never placed any articles in the schedule property. The 3rd defendant contended that he arranged a pillar in his site only but not in the site of plaintiffs. In view of the

said disputes, the plaintiffs filed the said application stating that there is a boundary dispute between them, which cannot be effectively settled without measuring the site by way of appointing an Advocate Commissioner.

After hearing both sides, the learned trial Court was of the view that for better adjudication of issue of the suit in dispute it is just and necessary to appoint an Advocate Commissioner as pleaded by the plaintiffs and also held that no prejudice will be caused to the defendants. Since the averments on either side are contra to each other, it is just and proper to get the reality over the site, which only can be done through appointing an Advocate Commissioner that would not prejudice to either of the parties.

In that view of the matter, I do not see any reason to interfere with the impugned order and therefore, this revision petition is liable to be dismissed.

Accordingly, this revision petition is dismissed.

As a sequel, miscellaneous petitions, if any, stands closed.

There shall be no order as to costs.

JUSTICE G.CHANDRAIAH

Date: 15.02.2016
LSK