

HONOURABLE SRI JUSTICE RAJA ELANGO

CIVIL REVISION PETITION No:4078 OF 2016

ORDER:

1. Aggrieved by order dated 30.6.2016 in I.A.No.181 of 2016 in O.S.No.28 of 2016 passed by the learned Junior Civil Judge, Mummidivaram, the present civil revision petition has been preferred.

2. The petitioners herein are the defendants and the respondents are the plaintiffs before the trial Court. For the sake of convenience, the status of the parties will hereinafter be referred to as arrayed in the suit.

3. The plaintiffs filed the above suit for declaration of their easementary rights over the plaint plan bodi marked as ABGH and for permanent injunction against the defendants restraining them not to interfere with the use of the said bodi by the plaintiffs. Pending the said suit, the plaintiffs filed the above I.A. seeking to appoint an Advocate Commissioner to inspect the plaint and suit schedule property and to note down the existing features and traces of the existing EFGH Bodi and to note down the necessity of the EFGH Bodi to irrigate the lands of the plaintiffs and to note down as to whether there is any other source to irrigate the lands of the plaintiffs, and other features which will be shown by the plaintiffs at the time of execution of the commission of warrant.

4. The trial Court appointed an Advocate-Commissioner to inspect the plaint and suit schedule property and to note down the existing features and traces of the existing EFGH Bodi and note down the necessity of the EFGH Bodi to irrigate the lands of the plaintiffs and to note down whether there is any other source to irrigate the lands of the plaintiffs. The advocate-commissioner was directed to issue notices to

both the Counsels and the parties prior to his visit and issuance of work memos, if any. Aggrieved by the said order, the defendants filed this revision.

5. Learned Counsel for the petitioners-defendants submitted that the trial Court passed the order under revision without giving any notice or opportunity to the petitioners and therefore, the order under revision is not sustainable.

6. Considering the facts and circumstances of the case and the submissions of the learned Counsel for the petitioners-defendants, this Civil Revision Petition is disposed of with the following directions:

“The order under revision is set aside and the above said I.A. is restored. The trial Court is directed to pass orders afresh in the above I.A., after issuing notice to both the parties and after hearing them, in accordance with law.”

No order as to costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

Justice Raja Elango

Date: 24th August, 2016
Nn.

HONOURABLE SRI JUSTICE RAJA ELANGO

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24.08.2016

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