

THE HON'BLE SRI JUSTICE RAJA ELANGO
CIVIL REVISION PETITION No.2011 of 2016

ORDER:

The petitioners preferred the present revision petition by invoking the provisions under Section 115 of the Code of Civil Procedure being aggrieved by the docket order dated 06.02.2016 passed in E.A. No.666 of 2015 in E.A. No.459 of 2014 in E.P. No.26 of 2013 in O.S. No.848 of 2010 on the file of the II-Additional Senior Civil Judge, Kakinada, East Godavari District.

Heard and perused the material available on record.

The 1st respondent is the decree holder in O.S.No.848 of 2010 on the file the II Additional Senior Civil Judge, Kakinada, East Godavari District, against the 2nd respondent. She filed EA No.70 of 2014 for execution of the decree, in which the suit schedule property was brought to sale, which belong to the 2nd respondent. The petitioners, who are mother and sister of the 2nd respondent, filed claim petition i.e. E.A. No.459 2014 in the above E.P., claiming to cancel the delivery proceedings passed in EA No.70 of 2014. Meanwhile, the 1st respondent filed an application i.e. E.A. No.666 of 2015 to appoint an advocate commissioner to measure the property. The Court below allowed the said application and appointed an advocate commissioner to measure the property with the help of Municipal Surveyor, after giving notice to both parties, through the order impugned. Against the said docket order, the present revision petition is filed.

Learned counsel for the petitioner submitted that the trial Court without giving any opportunity to the petitioners to submit the facts before it, had allowed the E.A. No.666 of 2015 without adjudicating the application filed by the petitioners, and that there is a dispute with regard to extent of land available on the ground.

Considering the facts and circumstances of the case, without

going into the merits of the case, this Court is inclined to pass the following order:

The order, dated 06.02.2016 passed in E.A. No.666 of 2015 in E.P. No.26 of 2013 in O.S. No.848 of 2010 by the II Additional Senior Civil Judge, Kakinada, East Godavari District is hereby set aside and the petitioners are directed to file counter in EA No.666 of 2015 and they are at liberty to raise all the contentions put forth before this Court, before the trial Court. The trial Court is directed to dispose of the said EA on or before 01.09.2016 taking into consideration the counter to be filed by the petitioners and also on bearing both sides.

Accordingly, the Civil Revision Petition is disposed of. Miscellaneous petitions filed in this revision, if any, shall stand closed.

RAJA ELANGO, J

June 29, 2016
KTL