

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition No. 3081 of 2015

Order:

The defendants 1, 4 and 5 in OS No.50 of 2014 on the file of XII Additional District Judge, Pithapuram, are the petitioners herein. The said suit was filed for the relief of partition and separate possession of plaintiffs share in the suit schedule property. In the said suit the plaintiffs filed IA No.100 of 2015 seeking appointment of an advocate-commissioner to note down the illegal constructions made in item No.2 of the plaint schedule property and also the physical features. Though, the said application was received by the defendants and sought time for filing counter, since they did not file counter, the application was allowed on 03.07.2015 appointing an advocate-commissioner to note down the illegal constructions made in item No.2 of the plaint schedule property and also to note down the physical features. Thereafter, the petitioners herein filed IA No.348 of 2015 to set aside that order and when the said application was dismissed, by an order dated 28.07.2015, the present Civil Revision Petition is filed.

2. Learned counsel for the petitioners submits that the advocate-commissioner cannot be appointed for noting down the alleged illegal constructions in item No.2 of the plaint schedule property, as he is incompetent to decide the legality of the constructions.

3. However, since the advocate-commissioner was appointed after issuing notice to the petitioners herein, this Court is not inclined to interfere with the order passed by the lower Court appointing the advocate-commissioner on 03.07.2015, but the advocate-commissioner so appointed shall note down only the physical features of the property including the structures existing on the site and file a report without making the observations with regard to legality of the constructions in item No.2 of the plaint schedule property.

4. With the above observations, the Civil Revision Petition is disposed of. However, in the circumstances, no costs.

5 . As a sequel thereto, the miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand closed.

A.

RAMALINGESWARA RAO, J.

Date: 04.02.2016

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