

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.3370 of 2015

ORDER:

Heard the learned counsel for petitioner and the learned counsel for first respondent.

2. The petitioner herein is plaintiff in O.S.No.65 of 2014 on the file of the Court of the Junior Civil Judge, Parchur, Prakasam District (for short, trial Court). In the said suit, as per the orders in I.A.No.236 of 2014, an Advocate Commissioner was appointed and he submitted a report on 22.09.2014 with regard to the measurements of the petition scheduled property. But, before inspecting the site and preparing the report, the Advocate Commissioner did not issue any notice to the first respondent herein. In those circumstances, the first respondent herein, who is the first defendant in the suit, filed I.A.No.16 of 2015 for appointment of another Advocate Commissioner to make the local investigation so as to note down the physical features of the scheduled property as per the gift deeds dated 17.11.1971 and 02.08.1974 along with the plaint with the assistance of Mandal Surveyor. A counter was filed by the petitioner herein, who is the plaintiff in the suit, stating that since the Commissioner appointed by the Court already submitted a report, the present application is unnecessary.

3. The trial Court noticed that the Commissioner earlier appointed did not issue any notice to the first respondent, at whose instance he was appointed, and accordingly allowed I.A.No.16 of 2015, by order dated 22.07.2015, appointing another Advocate Commissioner. Challenging the said order, the present Civil Revision Petition is filed.

4. Learned counsel for the petitioner submits that the second Advocate Commissioner cannot be appointed without filing objection to the report submitted by the earlier Advocate Commissioner. But, this is a case where no notice was issued to the defendant, who filed earlier an

application for appointment of Advocate Commissioner. At this stage, the learned counsel for the petitioner submits that the trial Court erred in appointing another Advocate Commissioner and re-entrusting the warrant.

5. In the facts and circumstances of the case, this Court feels that by appointing another Advocate Commissioner, no prejudice is caused to the petitioner. Hence, the Civil Revision Petition is dismissed as the order of the trial Court dated 22.07.2015 is a discretionary order. No order as to costs. Miscellaneous Petitions, if any pending, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 12.02.2016
TJMR