

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 583 of 2017

ORDER:

1) The present Civil Revision Petition is filed against an order dated 05.01.2017, passed in I.A.No.985 of 2016 in I.A.No.457 of 2009 in O.S.No.114 of 2009 on the file of the Principal Junior Civil Judge, Punganur, wherein the request of the petitioners/ defendants to re-issue the warrant to the Commissioner in I.A.No.457 of 2009 was rejected.

2) It is to be noted that pursuant to an application filed by the plaintiff, the trial Court appointed an advocate-Commissioner, who filed his report before the trial Court. Objections were filed by both sides. It is stated in the affidavit that at the time of execution of warrant, the defendants furnished work memos and requested him to measure the petition A and B schedule properties, but the Commissioner has measured the one sided and filed his report basing on the pleadings. Hence, the defendants filed an application to re-entrust the warrant to the Commissioner. While rejecting the request for re-entrustment of the warrant, the trial Court observed that the objections filed by the petitioners to the Advocate-Commissioner report will be

decided while disposing of the suit. Aggrieved by the same, the present revision came to be filed.

3) Learned counsel for the petitioners submits that there is no point in deciding the objections raised at the time of disposal of suit since the right of the petitioners to find fault with the advocate-commissioner report would be lost if such a procedure is adopted.

4) Learned counsel for the respondent would submit that since the case is at the fag end ie. for defendants' evidence, there is no point in directing the trial Court to consider the objections filed by the petitioners to the advocate-commissioner report.

5) A perusal of the record would show that the advocate-commissioner submitted his report in the year 2009 and thereafter objections were filed in the year 2011. Since the objections raised by the petitioners to the advocate-Commissioner report are pending consideration, which is revealed from the impugned order, this Court is of the view that it would be just and proper to direct the trial Court to deal with the objections independently and not as observed by the trial Court, if the same is not yet decided.

6) In view of the above, the Civil Revision Petition is disposed of directing the trial Court to dispose of the

objections raised by the petitioners to the advocate-commissioner report within a period of two (02) weeks from the date of receipt of a copy of the order and thereafter proceed with the trial and complete the same at the earliest. There shall be no order as to costs.

7) Miscellaneous petitions, if any, pending shall stand closed.

07.04.2017
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JUSTICE C. PRAVEEN KUMAR