

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO.1664 OF 2017

ORDER:

This petition is filed under Article 227 of the Constitution of India, challenging the order in I.A.No.135 of 2012 of O.S.No.571 of 2012 dated 31.08.2015 passed by the X Junior Civil Judge, City Civil Court, Hyderabad.

Learned counsel for the petitioner requested this Court to pass a similar order passed in C.R.P.No.1324 of 2017 dated 01.06.2017, the operative portion of which reads as follows:

“Therefore, it is premature to come to such a conclusion and appointment of advocate commissioner in such suit would virtually amounts to deciding the possession of the petitioner which is the outcome of the suit after full fledged trial. In such circumstances, there is no need for appointment of advocate commissioner for collection of such evidence to find out the exact area of property in possession of the respondents in view of decisions reported in (i) *SAGI VIJAYA RAMACHANDRA RAJU AND OTHERS v. KOPPISETTI SATYANARAYANA AND OTHERS*¹, (ii) *BATCHU NARAYANA RAO v. BATCHU VENKATA NARASIMHA RAO*², (iii) *KODURU SESA REDDY v. GOTTIGUNDALA VENKATA RAMI REDDY AND OTHERS*³, and (v) *YENUGONDA BAL REDDY v. MANEMMA AND OTHERS*⁴. In all the above four judgments, this Court consistently held that appointment of advocate commissioner, in a suit for declaration of title and permanent injunction or in a suit for injunction simplicitor, to note down physical features amounts to collection of evidence. The trial court relying on various judgments rightly concluded that the advocate commissioner cannot be appointed to know the exact area in occupation of the respondents to collection of evidence.

20. Hence, I find no ground in exercising jurisdiction under Article 227 of the Constitution of India to interfere with the impugned order under challenge. Consequently, the revision is liable to be dismissed.

21. In the result, the civil revision petition is dismissed. However, the petitioner is given liberty to renew his request if there are any changed circumstances after passing of this order. There shall be no order as to costs.

¹ 2009(6) ALT 353 = 2009(5) ALD 459

² 2010 (5) ALD 83

³ 2006(1) ALD 372

⁴ 2011(3) ALT 232

Let there be a similar order even in this case.

In the result, the civil revision petition is dismissed. However, the petitioner is given liberty to renew his request if there are any changed circumstances after passing of this order.

Consequently, miscellaneous applications pending if any, shall also stand closed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:20.07.2017

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