

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CIVIL REVISION PETITION No.2737 of 2015

ORDER:

This civil revision petition is filed under Article 227 of the Constitution of India, challenging the order dated 20.1.2015 in I.A. No.317 of 2012 in O.S. No.18 of 1997 on the file of the Court of Senior Civil Judge, Addanki, Prakasam District.

2. Heard the learned counsel for the petitioner and learned counsel for the respondents.

3. A perusal of the record reveals that the petitioner herein filed O.S. No.18 of 1997 against the respondent Nos.1 to 5 for partition of suit schedule properties, permanent injunction and future profits. After fullfledged trial, the trial court dismissed the suit on 30.5.2009. Feeling aggrieved by the judgment and decree of the trial court, the petitioner preferred A.S. No.146 of 2009 on the file of the court of II Additional district Judge, Ongole. The first appellate court allowed the appeal in part by passing preliminary decree in respect of an extent of Acs.2.50 cents in item No.1, an extent of Acs.0.39 cents in item No.2 and items Nos.3 to 6 of plaint schedule property.

4. While the things stood thus, respondent Nos.1 and 2 filed I.A. No.317 of 2012 in O.S. No.18 of 1997 under Order XX Rule 18 of CPC for passing of final decree in terms of the preliminary decree and also appoint an Advocate Commissioner to divide the schedule properties into four equal shares and allot one share each to petitioners and 1/4th share each to respondent Nos.1 and 2. The trial court, by the impugned order dated 29.1.2015, appointed

Advocate Commissioner to divide plaint schedule properties and submit report.

5. The entire controversy revolves around first two lines of paragraph No.10 of the impugned order, which reads as under:

“In the result, the final decree petition is allowed in terms of preliminary decree”

It appears that the petitioner filed the present revision petition under an impression as if the trial court passed the final decree, without giving any opportunity to him. I have carefully perused paragraph No.10 of the order of the trial court. Undoubtedly, the trial court erroneously mentioned the words, *“final decree petition is allowed”*. The tenor of the order clearly indicates that the trial court so far has not passed the final decree. The matter is coming up for filing Advocate Commissioner’s report. Except that, there is no much controversy in this revision petition.

6. Having regard to the facts and circumstances of the case, the words *“final decree petition is allowed”* are deleted from paragraph No.10 of the impugned order and remaining part of the order remains in tact. The trial court is hereby directed to dispose of I.A. No.317 of 2012 as expeditiously as possible by following the procedure contemplated under law.

7. With the above observations, the civil revision petition is disposed of. Miscellaneous petitions, if any pending in this revision petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 15.2.2017.

YS