

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CIVIL REVISION PETITION No.5209 of 2016

ORDER:

This civil revision petition is filed by the petitioner under Article 227 of the Constitution of India aggrieved by the order, dated 01.09.2016, passed by the IV Additional Junior Civil Judge, East Godavari, Rajamahendravaram, passed in I.A.No.664 of 2016 in O.S.No.625 of 2011.

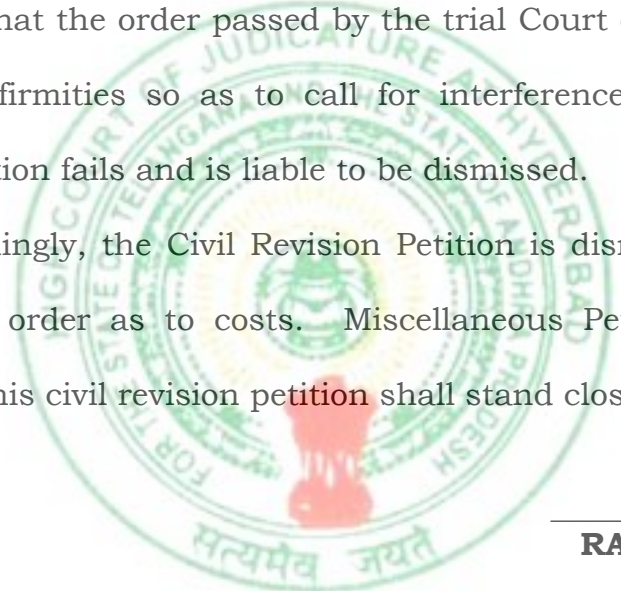
The petitioner filed I.A.No.664 of 2016 in O.S.No.625 of 2011 before the IV Additional Junior Civil Judge, Rajamahendravaram, to appoint an Advocate Commissioner for the purpose of noting down the physical features of the plaint schedule property and also direct the learned Advocate Commissioner to take measurements of the plaint schedule property with the help of Title Deeds of both the parties and file the Report after executing the warrant before the Court, wherein the learned IV Additional Junior Civil Judge dismissed the said I.A. on the ground that on earlier occasion, the petitioner filed I.A.No.496 of 2011 to appoint an Advocate Commissioner and the Advocate Commissioner was appointed in I.A.No.496 of 2011 and the Advocate Commissioner also filed his report and now the matter is also posted for trial and trial has also commenced. The learned trial Judge further observed as follows:

“Admittedly, the suit has been filed for grant of perpetual injunction restraining the respondents to interfere with the eastern side portion wall of the house portion of the petitioner. It is not in dispute that both the petitioner and the respondent have been residing side by side under the same roof. But according to petitioner, if the respondents are allowed

to cut the rafters of the roof, there is every likelihood of falling the roof. Therefore, what has to be decided is whether the petitioner is entitled for the relief of permanent injunction restraining the respondents from interfering with the eastern side house portion. For that purpose, I am of the humble opinion, appointment of advocate commissioner is not at all necessary as there can be no dispute with regard to the properties of both parties. Hence, I do not find any valid reason to allow the petition. Accordingly, the petition is liable to be dismissed.”

Considering the said facts and circumstances, this Court is of the view that the order passed by the trial Court does not suffer from any infirmities so as to call for interference and the civil revision petition fails and is liable to be dismissed.

Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in this civil revision petition shall stand closed.



RAJA ELANGO, J

Date: 8th February, 2017

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