

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

C.R.P.Nos.4535 & 5387 of 2016

ORDER:

Aggrieved by the dismissal of two applications one for reopening the evidence and another for appointment of an advocate commissioner, the plaintiff in a suit for recovery of possession has come up with the present revision petitions.

2. Heard Mr. B. Devanand, learned counsel for the petitioner and Mr. Kowturu Pavan Kumar, learned counsel for the respondents.

3. Admittedly, the suit is one for possession. The case of the petitioner is that when he and his wife were away, the respondents encroached into a portion of their property and put up a construction. To prove this the petitioner wants the appointment of an advocate commissioner. It appears that in a pre-suit mediation, the Mandal Surveyor visited the property and submitted reports, which were marked as Exs.A.1 and A.6.

4. Assuming that the petitions filed by the petitioner are allowed and a commissioner has been appointed, he can only file a report indicating the nature of the property, the constructions put up thereon and the physical features. The prayer for recovery of possession may not strictly depend upon the physical features of the property. The petitioner, as a plaintiff, may have to establish his right to recover the possession irrespective of the status of the property as on date. Therefore, there is no necessity in a case of this nature to appoint a commissioner. Hence the civil revision petitions are dismissed, leaving it open to the petitioner to establish his right to recover the possession.

5. As sequel, miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

JUSTICE V. RAMASUBRAMANIAN

3rd March, 2017
Js.



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Date: 03-03-2017

Js.