

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

CIVIL REVISION PETITION No.6768 of 2017

ORDER:

The defendant, in O.S.No.35/2010 on the file of the Junior Civil Judge, Allagadda, is the petitioner in the present revision, filed under Article 227 of the Constitution of India.

This revision assails the order, dated 30.10.2017, passed by the Junior Civil Judge, Allagadda in I.A.No.784/2017 filed by the petitioner herein under the provisions of Order XXVI Rule 9 CPC seeking appointment of an Advocate-Commissioner. The plaintiff-respondent herein resisted the application by filing a counter. The learned Judge, by way of the questioned order, dismissed the said application. Hence, the present revision.

Basically, O.S.No.35/2010 is instituted for permanent injunction. When the case was coming up for further evidence of the defendants, the present application came to be filed. In the affidavit, filed in support of I.A.No.784/2017, the defendant-petitioner herein stated that she is in possession of the suit schedule house and, in order to prove her possession, appointment of Advocate-Commissioner would be necessary. The learned Judge obviously, taking into consideration the scope of enquiry under Order XXVI Rule 9 CPC, recorded a finding that, for the purpose of ascertaining the possession, appointment of Advocate-Commissioner would not be permissible. Having noted so, the

learned Judge dismissed the application by placing reliance on the judgment of this Court in ***Gangavarapu Hanumantha Rao @ Anjaneyulu v. Battigiri Ramulu and others***¹. The petitioner herein sought for appointment of an Advocate-Commissioner to locate the suit schedule house and to note down the physical features, however, the affidavit, filed in support of I.A.No.784/2017, would show otherwise. Therefore, this Court is not inclined to meddle with the well-articulated order passed by the learned Junior Civil Judge, Allagadda in the impugned order.

Accordingly, the Civil Revision Petition is dismissed. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

07th December, 2017
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¹ 2008 (1) ALD 466