

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CIVIL REVISION PETITION No.120 of 2018

ORDER :

This Civil Revision Petition, under Article 227 of the Constitution of India, is preferred by the petitioners/defendants aggrieved by the order dated 26.12.2017 in I.A.No.725 of 2017 in O.S.No.22 of 2011 passed by the Junior Civil Judge, Tekkali, Srikakulam District, dismissing the application filed by them under Section 151 of C.P.C., seeking to re-open the matter for examining the Advocate-Commissioner in respect of variations in between the Advocate-Commissioner's Report filed before the Hon'ble Court and the copy served by the Advocate-Commissioner to his counsel.

The respondent/plaintiff has filed a suit in O.S.No.22 of 2011 on the file of the Junior Civil Judge, Tekkali, seeking permanent injunction against the petitioners/defendants. After recording evidence and hearing the arguments of both parties, the petitioners have filed the aforesaid application seeking to re-open the matter for examining the Advocate-Commissioner in respect of variations in between the Advocate-Commissioner's Report filed before the Hon'ble Court and the copy served by the Advocate-Commissioner to their counsel. After hearing both sides, the Court below dismissed the said application through the impugned order

dated 26.12.2017. Aggrieved by the same, the petitioners have filed the present Civil Revision Petition.

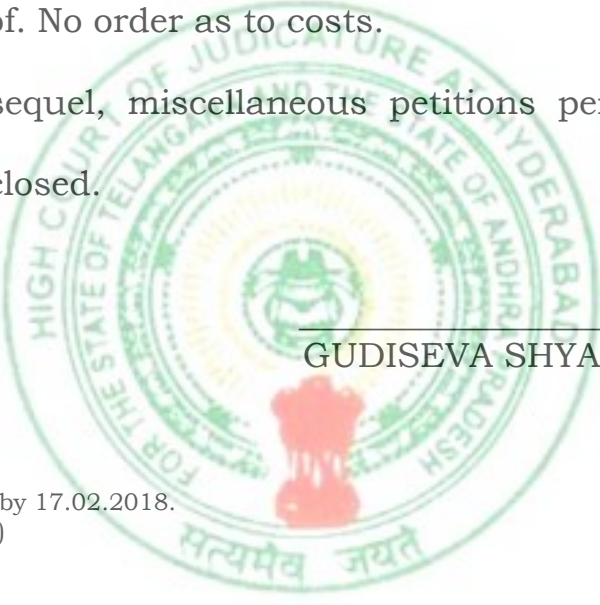
Heard learned counsel for the petitioners/defendants and perused the impugned order.

It is to be seen that the suit is of the year 2011. All the witnesses have been examined, entire trial has been completed and arguments have also been advanced by both the parties. At that stage, it has come to the notice of the petitioners that there are variations in between the Advocate-Commissioner's Report filed before the Hon'ble Court and the copy served by the Advocate-Commissioner to their counsel. If really there are any variations between the Advocate-Commissioner's Report filed before the Court below and the copy served on the counsel, the petitioners may submit their objections in that regard before the Court below. However, no such objections have been filed before the Court below. It is submitted that the entire arguments are over and the matter is reserved for judgment. It is pertinent to note that the only objection raised by the learned counsel for the petitioners is that there are variations in between the Advocate-Commissioner's Report filed before the Court and the copy served on the counsel for the petitioners. At this stage, it is not necessary to examine the Advocate-Commissioner on this aspect. Even before pronouncement of judgment, the petitioners may submit their written arguments bringing to the notice of the Court below about the so called variations

and the prejudice caused to them. If the judgment is not yet pronounced, the Court below is directed to permit the petitioners to submit their written arguments in respect of the variations in the Advocate-Commissioner's Report after duly serving a copy of the same to the learned counsel for the respondent and after permitting the respondent to file reply to the written arguments, if any, pass appropriate orders in accordance with law.

With the above observations, this Civil Revision Petition is disposed of. No order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.



GUDISEVA SHYAM PRASAD, J

16.02.2018.

NOTE: Issue C.C. by 17.02.2018.
(B/O)
Msr

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Msr