

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

C.R.P.NO.3659 OF 2015

ORDER:-

This revision petition is filed questioning the order, dated 22-07-2015 passed in I.A.No.74 of 2015 in O.S.No.129 of 2011 on the file of the court of Junior civil Judge, Gooty.

2. The suit is filed for a declaration of title. The present revision petitioner is the defendant in the suit. In the said suit, I.A.No.346 of 2011 was filed to appoint an Advocate Commissioner to inspect the suit schedule property. The Commissioner visited the site, made his observations and filed his report. According to the petitioner, who is the defendant in the suit, objections were also filed. It appears that thereafter, I.A.No.74 of 2015 is filed for appointment of another Advocate Commissioner to inspect the suit schedule property and to measure the same with the help of a Mandal Surveyor. This application came to be dismissed by the impugned order, dated 22-07-2015. Questioning the same, the present revision petition is filed.

3. This court has heard Sri K.Srinivas, learned counsel for the petitioner. The respondent did not turn up despite service of notice.

4. The short and simple question that arises for consideration is whether the court below committed any error in passing the impugned order?

5. The court below notices that second application was filed on 04-03-2015 and thereafter it is posted to 09-07-2015 for hearing. There was no representation for the petitioner. The respondent was ready. The petition was again posted to 22-07-2015. On that day also, counsel for the petitioner did not turn up. Therefore, the court came to a conclusion that the petitioner was not interested in pursuing the matter and has dismissed the application. In the revision petition that is filed, the dates mentioned and the non appearance of the petitioner before the court are not denied at all. On the contrary, it is stated that the earlier Commissioner did not execute the warrant property. The affidavit concentrates only on the earlier report of the Commissioner. Absolutely nothing is said about the contents of the impugned order. No reasons are forthcoming for the absence of the petitioner on 09-07-2015 or on 22-07-2015.

6. Whether the first Advocate Commissioner appointed in I.A.No.346 of 2011 executed the warrant correctly or not is not the subject matter of the current revision. Admittedly, the report was filed in the court and the objections were

also filed to the report. Therefore, this court cannot embark on an enquiry about the correctness or otherwise of the earlier Commissioner's report which also is not filed in the present revision petition. The grounds of revision do not in any way deal with the impugned order. The reasons for non absence of the petitioner on 09-07-2015 or on 22-07-2015 are not spelt out.

7. Even otherwise, the law is very clear that second Advocate Commissioner can be appointed only for a strong and cogent reasons which are made out for rejecting the earlier appointment. In the case on hand, apart from the fact that there is no explanation forthcoming for the absence of the revision petitioner in the court below, no reasons are also put- forwarded as to why second Advocate Commissioner is to be appointed. In that view of the matter, this court finds absolutely no merits in the revision petition.

Accordingly, the Civil Revision Petition is dismissed. No costs. The interlocutory applications pending, if any, shall stand closed in consequence.

03-12-2018
TSNR

D.V.S.S.SOMAYAJULU,J