

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Civil Revision Petition No.3365 of 2018

ORDER:

This Civil Revision petition, under Article 227 of the Constitution of India, is filed by the unsuccessful petitioner-plaintiff assailing the order, dated 13.04.2018, of the learned Principal Junior Civil Judge, Ongole, passed in IA.No.509 of 2018 in OS.No.346 of 2011 filed under Order XVIII Rule 17 read with Section 151 of the Code of Civil Procedure, 1908, requesting to recall PW2, that is, Advocate Commissioner for the purpose of marking rough plan, photographs and CD, which are filed along with his report, which is already exhibited as exhibit C1.

I have heard the submissions of Ms. Nimmagadda Revathi, learned counsel appearing for the petitioner.

Having regard to the nature of the request and the order passed by the trial Court, this Court is of the considered view that this revision petition can be disposed of at the stage of admission without notice to the respondents-contesting defendants as such a course would meet the ends of justice.

The case of the revision petitioner-plaintiff is that at the time of examination of the Advocate Commissioner, the afore-stated three annexures to the report are not marked separately by giving separate exhibit numbers; and, hence, a request was made to recall PW2, the Advocate Commissioner, for the purpose of exhibiting the said documents.

However, on resistance of the said request by the contesting defendants, the trial court rejected the request of the plaintiff, *inter alia*, observing that the Commissioner's report is part and parcel of the record and that the entire

report was marked as exhibit C1 and that, therefore, the petition is not maintainable.

In the considered view of this Court, as rightly contended by the learned counsel for the petitioner, if exhibit C1 report is marked in its entirety along with its annexures, there is no need for giving a separate exhibit marks to the annexures to the report.

In that view of the matter, the Civil Revision Petition is disposed of. Nevertheless, in view of the observation that the entire report is exhibited as C1, it is made clear that the trial Court shall look into exhibit C1-Commissioner's report along with annexures namely photographs, rough plan and CD without excluding them from evidence and consideration merely on the ground that they are not marked.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

M.SEETHARAMA MURTI, J

22.06.2018

Vjl