

THE HON'BLE JUSTICE SRI T. SUNIL CHOWDARY

CIVIL REVISION PETITION No.2599 of 2017

ORDER:

1 This Civil Revision Petition is filed under Article 227 of the Constitution of India assailing the order dated 23.03.2017 passed in I.A.No.508 of 2015 in O.S.No.59 of 2015 on the file of the Court of the XII Additional District Judge, Pithapuram.

2 Heard the learned counsel for both parties.

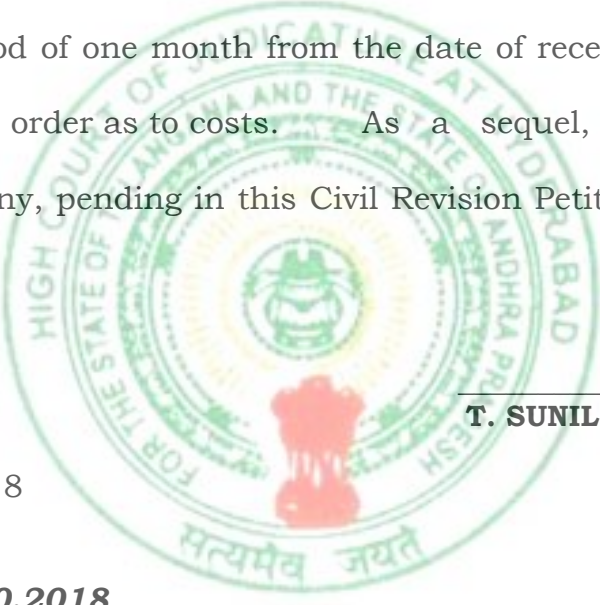
3 A perusal of the record reveals that respondents filed I.A.No.508 of 2015 under Order XXVI Rule 9 CPC for appointment of an advocate commissioner to note down the physical features of the suit schedule property as well as to localise the suit schedule property with reference to the title deeds of both parties with the help of a qualified surveyor. The respondents filed counter *inter alia* contending that the petition is not maintainable. The trial court, after affording reasonable opportunity to both parties, allowed the petition. Hence the present Civil Revision Petition.

4 This Court carefully perused the impugned order. At the time of arguments, both counsel, in all fairness, submitted that the trial court has not assigned reasons much less valid reasons while appointing the advocate commissioner.

5 While deciding interlocutory applications, the court has to consider the material available on record and pass speaking order. The fact remains that the trial court has not passed speaking order. Taking into consideration the facts and circumstances of the case, this court is of the considered view that this is a fit case

to remand the matter to the trial court for disposal in accordance with law.

6 In the result, Civil Revision Petition is allowed, setting aside the order dated 23.03.2017 passed in I.A.No.508 of 2015 in O.S.No.59 of 2015 on the file of the Court of the XII Additional District Judge, Pithapuram and the matter is remanded to the trial Court. The learned XII Additional District Judge, Pithapuram is hereby directed to pass speaking order in I.A.No.508 of 2015 afresh, after affording reasonable opportunity to both parties, within a period of one month from the date of receipt of a copy of this order. No order as to costs. As a sequel, miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand closed.



T. SUNIL CHOWDARY, J.

Dt: 04.10.2018

C.C. by 11.10.2018
B/o Kvsn