

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.4865 OF 2018

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India assailing the order dated 05.07.2018 passed in I.A.No.62 of 2018 in O.S.No.71 of 2011 on the file of the Family Court, Kurnool.

2. Heard the learned counsel for both parties.
3. At the time of arguments, learned counsel for the respondent submitted that the respondent filed I.A.No.209 of 2018, under Order XX Rule 18 C.P.C., for passing of final decree.
4. For one reason or other, the respondent filed I.A.No.62 of 2018 for appointment of advocate commissioner. It is a settled principle law that after numbering of the final decree petition, a party to the proceedings is entitled to file an application for appointment of advocate commissioner. As observed earlier, before numbering the final decree petition, the trial Court numbered I.A.No.62 of 2018 for appointment of advocate commissioner. The trial Court has not followed the procedure.
5. Learned counsel for both parties, in all fairness, submitted that I.A.No.62 of 2018 has to be filed in I.A.No.209 of 2018.
6. In view of the submission made by the learned counsel for both parties, this Court is of the considered view that it is a fit case to set aside the impugned order.

7. In the result, the Civil Revision Petition is allowed setting aside the order dated 05.07.2018 passed in I.A.No.62 of 2018 in O.S.No.71 of 2011 on the file of the Family Court, Kurnool. However, allowing of this revision does not preclude the respondent to file a similar type of application in I.A.No.209 of 2018 for appointment of advocate commissioner. There shall be no order as to costs.

8. Consequently, Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

Date: 19.12.2018
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T.SUNIL CHOWDARY, J

