

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

CIVIL REVISION PETITION NO. 4778 OF 2015

ORDER:-

This revision petition is filed questioning the docket order, dated 21-08-2015, passed in I.A.No.357 of 2015 in O.S.No.189 of 2016 on the file of the court of Principal Junior Civil Judge, Alamuru.

The suit, in the lower court, is filed for permanent injunction restraining the defendant and her men, agents, successors or anyone in any manner of right, interfering with peaceful possession and enjoyment of 'AB' red marked compound wall of the petition schedule property.

The defendant filed written statement denying the case of the plaintiff. When the matter went to trial, admittedly, the evidence of both plaintiff and defendant was completed. The matter was then posted for arguments on 30-06-2015. At that stage, an application was filed to receive the application for appointment of an Advocate Commissioner to note down the physical features of the petition schedule property and further note down the identity of the petition schedule property and the 'AB' red marked compound wall and the boundaries. The respondent filed a counter pointing out that the suit is for an injunction and that the evidence of defendant's side was already over and that the suit was posted for arguments on a number of

dates. It is also pointed out in the counter that the application is filed to delay the matter as there is no issue about the existence of 'AB' compound wall or its identity. The Principal Junior Civil Judge, Alamuru, by a speaking order dated 21-08-2015, rejected the said application. It is the order that is now assailed in the present Civil Revision Petition.

Heard the learned counsel for both sides.

This court notices that the suit is filed for a permanent injunction restraining the defendant and her men, agents, successors or anyone in any manner of right, interfering with peaceful possession and enjoyment of 'AB' red marked compound wall of the petition schedule property. The application, I.A.No.357 of 2015, which is filed to appoint the Advocate Commissioner, goes beyond the scope of the suit itself. In addition to this, this Court also notices that the application is filed long after the evidence is closed and the matter is posted for arguments. Therefore, this court is also of the same opinion as of the lower court. The application is not filed *bona fide* and is filed nine(9) years after the suit is filed with a view to drag on the matter and to delay its disposal. The prayer made is also not in accordance with law. Hence the revision is liable to be dismissed.

Accordingly, the Civil Revision Petition is dismissed.
No order as to costs. Miscellaneous Petitions pending, if
any, shall stand closed in consequence.

D.V.S.S.SOMAYAJULU,J

24-07-2018
TSNR

