THE HON'BLE SRI JUSTICE S.V.BHATT

C.R.P.No.6565 of 2017

ORDER:

Heard Mr.Venumadhav, counsel for petitioners.

The petitioner filed I.A.No.17 of 2015 for appointment of Advocate Commissioner to note down the physical features and also to measure the extents etc.

Admittedly, the prayer was accepted and one Rudra Sudhakar was appointed as Advocate Commissioner. The Advocate Commissioner filed memo, expressing his inability to execute the warrant. Thereafter, one K.Venkata Ramana Chary was appointed as Advocate Commissioner for execution of warrant. The matter was posted on 03.11.2017 and thereafter, at request, posted on 13.11.2017.

On 13.11.2017, the trial Court dismissed I.A.No.210 of 2017. On 13.11.2017, the petitioner paid Advocate Commissioner fee and also filed the present application for restoring I.A.No.210 of 2017 and enable the Advocate Commissioner to execute the warrant. The request of petitioner was rejected. Hence, the Civil Revision Petition.

The learned trial Judge referred to the sequence of dates and events and expressed the view that the petitioner

is not interested in getting the commission executed. The dates referred to above would go to show that the delay, if any, in execution of commission warrant entrusted to Sri N.Shankar, cannot be attributed to petitioner. The present Advocate Commissioner was appointed on 26.10.2017. The dismissal of application on 13.11.2017 certainly defeats the very purpose, for which the prayer was made for appointment of Advocate Commissioner. In the case on hand, since the respondents are not challenging the appointment of Advocate Commissioner at the earliest point of time by filing Civil Revision Petition, to meet the ends of justice, the Civil Revision Petition is ordered as follows, without notice to respondents in exercise of supervisory jurisdiction of this Court.

The prayer in I.A.No.742 of 2017 is set aside and I.A is restored to file. The Advocate Commissioner shall execute the warrant within four (04) weeks from the date of receipt of copy of this order. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

S. V. BHATT, J

Dt: 05.02.2018
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