

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.3038 OF 2019

ORDER:

This revision, under Article 227 of the Constitution of India, is filed by the petitioners/appellants aggrieved by the order dated 06.12.2019 passed in I.A.No.2023 of 2019 in C.M.A.No.99 of 2019 by the learned II Additional District Judge, Ranga Reddy District at L.B. Nagar.

2. Heard learned counsel for both sides and perused the record.

3. The first respondent herein/plaintiff filed I.A.No.734 of 2019 under Order XXXIX Rules 1 and 2 of CPC seeking *ad interim* injunction against the revision petitioners. The trial Court allowed the said application by directing both the parties to maintain *status quo* with regard to their possession over the petition schedule property till disposal of the suit. Aggrieved by the same, the revision petitioners/defendant Nos.3 and 4 filed C.M.A.No.99 of 2019 under Order XLI Rule 5(1) of CPC before the II Additional District Judge, Ranga Reddy District, seeking injunction pending disposal of the said CMA. The first Appellate Court *vide* impugned order dated 06.12.2019 appointed Sri V.Jaya Prakash as Advocate Commissioner for execution of warrant and directed the Mandal Surveyor of Uppal to assist Advocate Commissioner in execution of warrant and also directed both the parties to maintain *status quo*. Aggrieved by the same, the present revision is filed.

4. Learned counsel for the revision petitioners would contend that in the impugned order dated 06.12.2019, order of *status quo* was granted by the first Appellate Court. In an application filed under

Order XXXIX Rules 1 and 2 of CPC, the trial Court directed both the parties to maintain *status quo vide* order dated 14.10.2019 in I.A.No.734 of 2019 in O.S.No.459 of 2019. Instead of granting *status quo*, both the Courts below ought to have decided the applications on merits.

5. Learned counsel for both the parties did not dispute about the appointment of Advocate Commissioner *vide* impugned order dated 06.12.2019. Therefore, no variation is required to be made in respect of that part of order. Pursuant to the impugned order, Sri V.Jaya Prakash is appointed as Advocate Commissioner. Therefore, the said Advocate Commissioner can proceed with the execution of warrant as directed in the impugned order. Both the parties are claiming possession over the suit schedule property by filing number of documents. Therefore, pending suit, the application filed under Order XLI Rules 1 and 2 of CPC is required to be determined by going into the merits of the case as well as the report of the Advocate Commissioner.

6. In view of the fact that the Advocate Commissioner was directed to submit his report, the first Appellate Court is directed to dispose of I.A.No.2023 of 2019 in C.M.A.No.99 of 2019 afresh in accordance with law, after considering the said report and after affording opportunity to both the parties on record. It is made clear that the Advocate Commissioner shall submit his report within three weeks from the date of receipt of a copy of this order. However, the order of *status quo* shall stand continue till disposal of the said I.A.

7. To the extent indicated above, the impugned order is modified and the Civil Revision Petition is accordingly disposed of.

The Miscellaneous Petitions, if any, pending shall stand closed.
No costs.

Dr. SHAMEEM AKTHER, J

Date: 05.02.2020
ssp

