

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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C.R.P.NO.109 OF 2015

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ORDER

Heard both the counsel.

2. Aggrieved by the order dated 2.12.2014 passed by the court of Principal Junior Civil Judge, Anakapalle, in I.A.No.565/2014 in O.S.No.78/2006 in rejecting the application filed for appointment of Advocate Commissioner to localize the plant scheduled property and to note down the physical features by comparing Exs.X-1 to X-4 and B-6, the plaintiff filed the present revision.

3. From the impugned order and the material on record it could be seen that the plaintiff claiming to be the tenant over the suit schedule property filed suit for permanent injunction and the suit after closure of evidence of both the sides and when the suit is at the stage of arguments, the petitioner filed the present application. The claim of the petitioner is that the suit schedule property was purchased by his landlords under Ex.X-1 and Exs.X-2 and X-3 are the link documents and the defendants are claiming ownership and possession over the suit schedule property under Ex.B-6 and that the vendors of the defendants earlier filed suit in O.S.No.101/1999 and filed copy of the sale certificate issued in E.P.No.439/1963 in S.C.No.311/1954 and the present plaintiff got the same marked as Ex.X-4. The claim of the petitioner is that the boundaries mentioned in Ex.B-6 and in Ex.X-4 are not tallying and therefore he seeks appointment of an Advocate Commissioner to localize the plaintiff schedule property with the help of Exs.X-1 to X-4 and B-6 and the physical features of the plaintiff schedule in and around the suit schedule property.

4. The documents which the plaintiff is seeking to take into consideration are already marked and it is settled principle that Advocate Commissioner cannot be appointed

to collect evidence and the possession has to be proved based on evidence and as noted by the court below if the court based on facts and circumstances feels that clarification is required for just adjudication, Advocate Commissioner can be appointed to localize the suit schedule property and when the evidence of both the parties is closed and the matter is coming up for arguments, at that stage, attempt on the part of the parties to collect evidence by seeking to appoint an Advocate Commissioner, cannot be allowed. I do not find any merit in the revision and the same is dismissed. No costs.

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

AVS -----

02—04—2015