

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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C.R.P. Nos.4593, 4595, 4598 and 4601 of 2014
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COMMON ORDER:

Heard the learned counsel for petitioners. Though notice is served on the respondent, none appeared.

2. C.R.P. No.4593/2014 is filed against the order in I.A.No.257/2014 in O.S. No.53/2009 dated 10.11.2014 on the file of the V Additional District Judge, Bhongir (for short, 'the V ADJ, Bhongir'), The said application was filed for appointment of Advocate Commissioner by the plaintiffs and the same was dismissed by the trial Court. Similarly, C.R.P. No.4595/2014 also arises out of an order in I.A.No.255/2014 in O.S. No.54/2009 dated 10.11.2014 on the file of the V ADJ, Bhongir, filed for the same purpose. The two applications were filed as the defendants in the suits are different.

3. The plaintiffs also filed two other applications for re-opening of the suit for the purpose of filing a petition for appointment of Advocate Commissioner. C.R.P. No.4598/2014 arises out of an order in I.A. No.256/2014 in O.S. No.54/2009 dated 10.11.2014 on the file of the V ADJ, Bhongir. C.R.P.No.4601/2014 arises out of an order in I.A. No.258/2014 in O.S. No.53/2009 dated 10.11.2014 on the file of the V ADJ, Bhongir. In view of the dismissal of the applications for appointment of Advocate Commissioner, the applications in I.A.Nos.256 and 258 of 2014 were dismissed by the trial Court by orders dated 10.11.2014.

4. The plaintiffs/petitioners filed the applications for appointment of Advocate Commissioner to ascertain the clear extent of land after leaving 50 feet from the centre of the road on southern side and full tank

levels on North-east side and the location of path and extent of water stream from culvert in and out of schedule property as per Ex.A.1 agreement of sale.

5. Counter affidavit was filed by the respondent contending that immediately after execution of Ex.A.1 agreement of sale the land was surveyed and measured. It was also stated that boundaries were fixed by the Mandal Surveyor in the presence of parties to the suit.

6. The said applications were filed at the stage of arguments. The sole defendant in his cross examination stated that survey was conducted by the Surveyor, but could not file the certified copy of the survey report. The applications were dismissed on the ground that the petitions were filed by the petitioners at a belated stage.

7. The learned counsel for petitioners submits that clause 3(c) of the agreement of sale dated 30.11.2006 clearly says that the extent of land is subject to survey and availability of land with all setbacks and therefore, it is necessary for appointment of Advocate Commissioner. He further submits that in the absence of measurement of the land that is available, it is difficult for the plaintiffs to pay the balance sale consideration and take possession of the land. The petitioners/plaintiffs have pleaded about this aspect of the matter in the suit filed by them and might have led evidence on this aspect before the trial Court. It is needless to mention that the trial Court will take this aspect into consideration while passing final orders. The suit is at the stage of arguments after completion of evidence. At this stage, further proceedings of the suit cannot be interdicted at the instance of the plaintiffs, who filed the application for appointment of Advocate Commissioner,

8. In the circumstances, this Court finds no merit in the applications

filed by the petitioners and further finds that the orders passed by the trial Court are proper.

9. In the result, these Civil Revision Petitions are dismissed. Consequently, the orders passed by the trial Court in I.A.Nos.257 and 258 of 2014 in O.S. No.53/2009 and I.A. Nos.255 and 256 in O.S. No.54/2009 on the file of the V ADJ, Bhongir are also dismissed. There shall be no order as to costs.

Miscellaneous petitions pending, if any, in these Civil Revision
Petitions shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 27.02.2015

Note: Issue C.C. in two days

(B/O)

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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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