

**IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
MONDAY, THE TWENTY SEVENTH DAY OF MARCH
TWO THOUSAND AND TWENTY THREE**

:PRESENT:

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI



IA No. 1 OF 2023

IN

CRP NO: 814 OF 2023

Between:

Kothapalli Indira Jyithi, W/o. Krian, Aged about 35 years, Occu. House Wife,
R/o.D.No. 11-2-142, Flat No.106, Sri Harichandra Residency, Near Town Hall,
Jangareddygudem, West Godavari District, State of A.P, Pin. 534447.

Petitioner/Plaintiff/Respondent

AND

1. Chedella Lakshmi, W/o. Venkata Sivaji, Aged about 48 years, Occu.Business,
R/o. D.No. 16-23-63/1A, Pallamraju Nagar, Kakinada, East Godavari District,
State of A.P.
2. Chedella Venkata Sivaji, S/o. Not Known, Aged about 53 years, Occu.
Business, R/o. D.No. 16-23-63/1A, Pallamraju Nagar, Kakinada, East
Godavari District, State of A.P.
3. Bezawada Prabhakar, S/o. Kumar, Aged about 60 years, Occu. Business,
R/o. D.No. 24-8-8, Kacheripeta, Kakinada, East Godavari District, State of
A.P.

Respondents/Defendants/Petitioners

Counsel for the Petitioner: SRI G VIJAYA BABU

Counsel for the Respondents: - - -

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings in O.S.No. 540 of 2016 on the file of the Principal Senior Civil Judge, Kakinada, pending disposal of CRP No. 814 of 2023, on the file of the High Court.

The court while directing issue of notice to the Respondents herein to show cause as to why this application should not be complied with, made the following order.(The receipt of this order will be deemed to be the receipt of notice in the case). The Court made the following

ORDER:

"Learned counsel for the petitioner submits that earlier the petitioner/plaintiff filed O.S. No.540 of 2016 on the file of Principal Senior Civil Judge, Kakinada for declaration of title and recovery of possession. In the said suit, the plaintiff filed Interlocutory Application for appointment of a new Advocate Commissioner and the same was dismissed.

Aggrieved by the same, a C.R.P. No.6429 of 2018 was filed and this Court has allowed the said revision and thereby, an Advocate Commissioner was appointed and he executed the warrant and also filed a report. The Advocate Commissioner as well as Mandal Surveyor were examined in the said suit as P.W.5 and P.W.6. In spite of that, the present I.A. No.160 of 2022 has been filed by the defendants, once again to appoint an Advocate Commissioner and the said application was allowed erroneously, thereby the Advocate Commissions warrant is re-entrusted to the same commissioner i.e., Sri G.V.S.Vinayaka Rao with a direction of measuring the extents of land claimed by both the parties with reference to the sale deeds relied on by them, with the assistance of Mandal Surveyor by following the procedure established under law. In spite of bringing the above facts to the notice, the Court below failed to see that Advocate Commissioner & Surveyor were already examined as witnesses and in such circumstances, re-entrustment of warrant is unsustainable.

Taking into consideration the submissions of the learned counsel for the petitioner and the grounds raised in the Revision, *prima facie*, this Court finds that there is point for consideration in the Revision Petition and in the meantime if the suit is decided, the purpose of filing this Revision Petition will be defeated and the petitioner will be adversely affected. As such, this Court is inclined to grant the following interim order:

There shall be stay of all further proceedings in O.S. No.540 of 2016 on the file of Principal Senior Civil Judge, Kakinada, for a period of six (06) weeks."

Sd/- P. VINOD KUMAR
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Senior Civil Judge, Kakinada
2. Chedella Lakshmi, W/o. Venkata Sivaji, Aged about 48 years, Occu.Business, R/o. D.No. 16-23-63/1A, Pallamraju Nagar, Kakinada, East Godavari District, State of A.P.
3. Chedella Venkata Sivaji, S/o. Not Known, Aged about 53 years, Occu. Business, R/o. D.No. 16-23-63/1A, Pallamraju Nagar, Kakinada, East Godavari District, State of A.P.

4. Bezawada Prabhakar, S/o. Kumar, Aged about 60 years, Occu. Business, R/o. D.No. 24-8-8, Kacheripeta, Kakinada, East Godavari District, State of A.P. (Addresses 2 to 4 by RPAD)
5. One CC to SRI. G VIJAYA BABU Advocate [OPUC]
6. One spare copy

npc

HIGH COURT

RCJ

DATED:27/03/2023

POST ON 17.04.2023.

ORDER

I.A.NO.1 OF 2023
IN
CRP.No.814 of 2023

STAY

