



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3329]

WEDNESDAY, THE TENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

CIVIL REVISION PETITION NO: 3028/2025

Between:

1. GORREPATI SRINIVASA RAO,, S/O. SUBBARAO, AGED 58 YEARS,
PADMALAYA BAKERY, NEELAMPALEM, ONGOLE CITY,
PRAKASAM DISTRICT.

...PETITIONER

AND

1. MEKALA RAMA MOHANA RAO, S/O. PAPAIAH, AGED 56 YEARS.
R/O. DARGA GRAMAM (V), CUMBUM MANDAL, PRAKASAM
DISTRICT.

2. KELAM ANKI REDDY, S/O. CHENNA REDDY, AGED 59 YEARS. R/O.
MADANA PULLALA CHERUVU (V), BESTAVARIPETA MANDAL,
PRAKASAM DISTRICT.

...RESPONDENT(S):

Petition under Article 227 of the Constitution of India, praying that in the circumstances stated in the grounds filed herein, the High Court may be pleased to allow this revision, setting aside the Order dated 25-02-2025 passed in I. A. 36 /2023 in OS No. 67 of 2023 on the file of the III Addl. Civil Court (Junior Division) Ongole, and pass

IA NO: 1 OF 2025

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 dispense with in filing of the certified copies of docket orders dated 25-02-2025 in IA No. 36 of 2023 in OS no. 67 of 2023 pending before the

Hon'ble III Additional Civil Judge (Junior Division), Ongole, till pending of CRP and pass

IA NO: 2 OF 2025

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 suspend the operation of the Order dated. 25.02.2025 passed in I.A. No. 36 of 2023 in OS No. 67 of 2023 on the file of the Court of Learned Civil Judge, (Junior Division) Ongole, pending disposal of the main CRP and to pass

Counsel for the Petitioner:

1.T SREEDHAR

Counsel for the Respondent(S):

1.

The Court made the following:

THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA**CIVIL REVISION PETITION NO.3028 OF 2025****ORDER:-**

The Civil Revision Petition is filed under Article 227 of the Constitution of India seeking to set aside the order dated 25.02.2025 passed in I.A.No.36 of 2023 in O.S.No.67 of 2023 on the file of the III Additional Civil Court (Junior Division) Ongole and to pass appropriate orders.

2. Heard learned counsel for the petitioner. Perused the material on record.

3. The petitioner herein is the defendant and the respondents herein are the plaintiffs in the suit. For convenience of the court the parties are referred to as referred at the trial Court.

4. Learned counsel for the revision petitioner submits that the plaintiffs/ respondents herein instituted a suit in O.S.No.67 of 2023 on the file of Court of III Additional Junior Civil Judge, Ongole seeking for permanent injunction in respect of the suit schedule property. The defendant/ petitioner herein filed a written statement. During pendency of the suit, the plaintiffs/ respondents herein filed I.A.No.36 of 2023 seeking for appointment of an advocate commissioner to conduct survey and to locate the plaint schedule property. The said application filed in a suit for permanent injunction cannot be sustained. The onus to prove possession and enjoyment of the suit schedule property rests solely on the plaintiffs, and the appointment of commissioner at this stage amounts to collection of evidence and is not permissible. But, the III

Additional Junior Civil Judge, Ongole by order dated 25.02.2025 erroneously allowed the I.A.No.36 of 2023 appointing an advocate commissioner for conducting survey and demarcation of the plaint schedule property with a mandal surveyor which is contrary to the settled principles of law. Aggrieved by the said order, the defendant therein/ petitioner herein preferred the present civil revision petition.

5. Learned counsel for the revision petitioner further submits that appointment of advocate commissioner at this stage amounts to the collection of evidence and is not permissible. He further submits that since the suit itself is filed for permanent injunction, filing application for appointment of advocate commissioner to locate and demarcate the land cannot be ordered, which is against the settled law. But, the trial court erroneously allowed the application which requires the interference of this court.

6. Learned counsel for the revision petitioner further submits that in similar circumstances, this Court passed an order dated 24.03.2023 in C.R.P.No.754 of 2023. He further submits that the defendants in the suit filed an interlocutory application seeking for appointment of an advocate commissioner. The trial court, after taking into consideration all the aspects, dismissed the interlocutory application on the ground that appointment of advocate commissioner at this stage of trial is nothing but collection of evidence. The trial court further observed that in a suit for perpetual injunction, the fact that as to who is in possession of the property in dispute, has to be adjudicated by the trial court after taking oral and documentary evidence and the advocate

commissioner cannot be appointed for the said purpose, as it would tantamount to substitute the decision of the court. Aggrieved by the same, the defendants therein filed a revision petition vide C.R.P.No.754 of 2023, wherein, this Court held as follows:

“The present suit is for permanent injunction. It is for the petitioner to prove his case that as on the date of filing the suit he is in possession of the property. Without letting bare evidence, the parties cannot ask for appointment of advocate commissioner, though there is no express bar in seeking appointment of advocate commissioner in the suit for injunction. In the present case, the petitioner has not raised any proper ground while seeking appointment of advocate commissioner that too being defendants. The court below has rightly dealt with the application and dismissed by giving proper reasons and this Court does not find any illegality, impropriety in the said order and there are no valid grounds raised or urged by the petitioners warranting interference of this court, hence, it is liable to be dismissed.”

7. Having considered the submissions made by the learned counsel for the revision petitioner/ defendant therein and on perusal of the material placed on record and in view of the order dated 24.03.2023 passed by this Court in C.R.P.No.754 of 2023 which squarely covers the issue in hand. Admittedly, the suit is filed for permanent injunction and the trial court should determine the real possession of the parties over the subject schedule property after having full length trial and arguments and the same cannot be determined by any advocate commissioner which is contrary to the jurisprudence of law of injunction. Therefore, it is clear that appointing an advocate commissioner at this stage cannot be permissible and it amounts to collection of evidence. As

such, the order impugned in the present revision petition is liable to be set aside.

8. Accordingly, the present Revision Petition is allowed, setting aside the order dated 25.02.2025 passed in I.A.No.36 of 2023 in O.S.No.67 of 2023 on the file of the III Additional Civil Court (Junior Division) Ongole. There shall be no order as to costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

VENKATESWARLU NIMMAGADDA, J

Date:10.12.2025
BSP

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THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

Civil Revision Petition NO.3028 OF 2025

DATED:10.12.2025

BSP