#### THE HON'BLE SRI JUSTICE BATTU DEVANAND

### **CIVIL REVISION PETITION NO.1268 of 2022**

### ORDER:

Aggrieved by the Order dated 13.06.2022 in I.A.No.156 of 2022 in O.S.No.480 of 2018 on the file of IV Additional Junior Civil Judge, Kadapa, the present Civil Revision Petition is filed by the petitioners.

- 02. Heard Sri D. Kodandarami Reddy, learned Counsel for the Petitioners and perused the material available on record.
- 03. The Petitioners are the defendants and the respondent is the Plaintiff in O.S.No.480 of 2018 on the file of IV Additional Junior Civil Judge, Kadapa.

### Facts:

04. The case of the petitioners is that the respondent filed O.S.No.480 of 2018 for eviction of the schedule property and to deliver the possession. Thereafter, the petitioners filed I.A.No.156 of 2022 to appoint an advocate commissioner to note down physical features of the suit schedule property and the condition of the building. The trial Court, dismissed the said petition. Aggrieved by the same, the present CRP is filed.

## **Contentions of the petitioners:**

- 05. Learned counsel for the petitioners submits that the petitioners are in occupation of the suit schedule property and the respondent alleged that the schedule building is required for repairs and it may be collapsed any point of time and as such, the appointment of an advocate commissioner is just and necessary to note down the physical features of the suit schedule property and condition of the building. He further submits that the petitioners made effective repairs for safety of the employees and the workers, who are working in the industry. The trial Court ought to have been allowed the said petition filed by the petitioners only to note down the physical features of the premises to prove their case that they are maintaining the schedule building in a good condition. The Order passed by the trial Court is illegal, improper and in correct. Therefore, challenging the Order passed by the trial Court, this Civil Revision is filed by the petitioners.
- 06. Learned counsel for the respondent submits that the petition filed by the petitioners is premature as the suit is filed for eviction and this Petition is filed for collection of evidence after four years from the date of filing of the suit and that too the suit is posted for defendants' evidence. Without adducing the evidence, the present Revision Petition is not maintainable.

## **FINDING OF THE COURT:**

- 07. On careful examination of the material available on record, it appears, the petitioners filed I.A.No.156 of 2022 in O.S.No.480 of 2018 to appoint an advocate commissioner to note down the physical features of the schedule property and condition of the building, but the trial Court dismissed the said petition. Admittedly, the suit is filed for eviction of the suit schedule property and to deliver possession. The petitioners are contending that they have been in occupation of the premises since eight years and they made effective repairs for safely measurements of the employees and other workers, who are working in the industry, and that no repairs require immediately, and to prove the same, an Advocate Commissioner is to be appointed. The trial Court in its Order rightly held that even if the respondent disputes the repairs made by the petitioners in occupation for the purpose of their business, appointment of Advocate Commissioner to note down the physical features would not in any way be relevant for the purpose of determining the issues involved in the eviction suit. The petitioners have sought for appointment of Advocate Commissioner only to note down the physical features which may not in any way helpful to them to put forth their case effectively.
- 08. Admittedly, the plaintiff's evidence was completed and the suit is coming up for the defendants' evidence. It has been categorically deposed in the evidence that the age and condition of the building may be relevant factor to test the bonafides of the respondent, but, they are not determinative of the issue whether the building is required for

4

demolition and reconstruction by the respondent. Admittedly, the

building is more than 45 years old. Therefore, this Court is of the opinion

that the Advocate Commissioner need not be appointed at this stage.

09. As such, there is no any illegality or irregularity in the order

passed by the trial Court in I.A.No.156 of 2022 in O.S.No.480 of 2018.

10. Considering the facts and circumstances of the case and the

material available on record, this Court is fully agreeing with the finding

of the learned IV Additional Junior Civil Judge, Kadapa, and in our

considered view, no interference is warranted and it is liable to be

dismissed.

11. Accordingly, this Civil Revision Petition is dismissed.

12. There shall be no order as to costs.

As a sequel, miscellaneous petitions, if any, pending in this case

shall stand closed.

**JUSTICE BATTU DEVANAND** 

Dt. 14.07.2022

eha

# THE HON'BLE SRI JUSTICE BATTU DEVANAND

# **CIVIL REVISION PETITION NO.1268 of 2022**

Dt. 14-07-2022

eha