HIGH COURT FOR THE STATE OF TELANGANA

CIVIL REVISION PETITION No.2663 of 2026

Between :

Ramadugu Madhusudhan S/o.Brahmaiah,
Age: 52 years, Occ: Business,
R/o.H.no.16-10-1278/1, Opp to Ramalayam,
Shiva Nagar, Warangal Town,
Mandal & District and another.

....Petitioners/Plaintiffs

VERSUS

Bhukya Srinu S/o.Bheema
Age: 44 years, Occ: Agriculture
R/o.Veeraram Thanda,
H/o. Shanigapuram Village,
Mahabubabad Mandal & District.
PS. Gachibowli, Hyderabad.
Rep by its Public Prosecutor and seven others.

... Respondents

DATE OF ORDER PRONOUNCED: 04.11.2026

THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

1.	Whether Reporters of Local newspapers may be allowed to see the Judgments?	Yes/No
2.	Whether the copies of judgment may be marked to Law Reporters/Journals?	Yes/No
3.	Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment?	Yes/No

J. SREENIVAS RAO, J

THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

+ CIVIL REVISION PETITION No.2663 of 2026

% Dated 04.11.2026

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Mahabubabad Mandal & District.

... Respondent

! Counsel for Petitioners : Mrs. N.V.R. Rajya Lakshmi

^ Counsel for Respondent : Mr. K. Siddhartha,

< GIST:

> HEAD NOTE:

? CITATIONS:

1. 2013 (4) ALD 347
2. 2015 (2) ALD 206
3. (2021) 1 ALD 92
4. (2020) 4 ALT 433
5. 2026 SCC OnLine TS 5651

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

CIVIL REVISION PETITION No.2663 of 2026
(CNR No. HBHC010592912026)

Date: 04.11.2026

Reserved on: 30.10.2026 **Pronounced on : 04.11.2026**
Uploaded on : 04.11.2026

Between:

Ramadugu Madhusudhan and another

... Petitioners/plaintiffs

AND

Bhukya Srinu

... Respondent/defendant

O R D E R:

This Civil Revision Petition has been filed by the petitioners/plaintiffs under Article 227 of the Constitution of India, aggrieved by the order, dated 16.06.2026, passed by the learned Senior Civil Judge, Mahabubabad (for short, 'the learned trial Court'), in I.A.No.534 of 2025 in O.S. No.131 of 2025, whereby the application filed by the defendant seeking appointment of an Advocate-Commissioner to identify the suit land in Sy.Nos.273/4, 275/1 and 275/4 and to note down the physical features of the suit land with the assistance of the Assistant Director, Survey and Land Records, Mahabubabad, was allowed.

2. The revision petitioners herein are the plaintiffs and the respondent is the defendant in O.S.No.131 of 2025. For the sake of convenience, the parties herein are referred to as they were arrayed in the suit in O.S.No.131 of 2025 before the learned trial Court.

3. **Brief facts of the case**:

3.1. The plaintiffs filed a suit in O.S.No.131 of 2025 before the Senior Civil Judge at Mahabubabad for grant of perpetual injunction restraining the defendant from interfering with the possession and enjoyment over the Item Nos.1 to 3 of the suit schedule properties. In the said suit, the defendant filed an application in I.A.No.534 of 2025 seeking appointment of advocate commissioner for identification of suit lands in Sy.Nos.273/4, 275/1 and 275/4 and to note down physical features of suit land with the assistance of Assistant Director of Survey and Land Records, Mahabubabad, on the ground that the plaintiffs have mentioned the wrong boundaries in respect of the suit schedule properties, especially the properties mentioned in the suit schedule did not belong to the plaintiffs and the identification of the schedule property is also in dispute. To resolve the said dispute and for proper adjudication of the suit proceedings, appointment of an advocate commissioner for identification of the suit lands and to note down physical features of the suit land is very much required. The learned trial Court allowed the said application through impugned order dated

16.06.2026. Aggrieved by the same, the plaintiffs filed the present civil revision petition.

4. Heard Mrs. N.V.R. Rajya Lakshmi, learned counsel for the petitioners, and Mr. K.Sidhartha, learned counsel representing M/s. RVR Associates appearing for the respondent.

5. Submissions of learned counsel for the petitioners:

5.1. Learned counsel for the petitioners/plaintiffs submitted that the plaintiffs filed a suit for perpetual injunction restraining the defendant from interfering with the suit schedule properties, especially the initial burden lies upon the plaintiff to prove the case and the suit has not ripened for trial. He further submitted that even before commencement of the trial, the defendant filed an application in I.A.No.534 of 2025 seeking appointment of advocate commissioner for identification suit schedule properties with boundaries and to note down the physical features with the assistant of Assistant Director of Survey and Land Records. The application filed by the defendant amounts to gathering evidence and the same is not permitted under law.

5.2. Learned counsel further submitted that the plaintiffs have specifically mentioned in the counter that the boundaries mentioned in respect of the suit schedule properties are correct. Whether the boundaries mentioned in the suit schedule properties are correct or not, the same will be revealed during the course of trial. Even before

the matter has not ripened for trial, the defendant filed the application and the same is a premature one and the impugned order passed by the learned trial Court is contrary to law.

5.3. In support of her contentions, learned counsel relied upon the following judgments/orders:

1. **A. Gopal Reddy v. R. Subramanyam Reddy and another**[1];
2. **Arvind Kumar Agarwal v. Legend Estates (P) Ltd., Ranga Reddy District, Hyderabad**[2].
3. Order of this Court in **C.R.P.No.647 of 2026 dated 16.07.2026** between **M. Rahashekhar Reddy and Madireddy Narender Reddy and another**.
4. Order of this Court in **C.R.P.No.2226 of 2025 dated 15.10.2025** between **Reddyshetty Srihari and another v. Sureneni Chakradhar Rao.**

6. Submissions of learned counsel for the respondent :

6.1. *Per contra,* learned counsel for the respondent/defendant submitted that the plaintiffs, without having any manner of right, interest, title over the subject properties, filed the suit for grant of perpetual injunction by mentioning the wrong boundaries in respect of the suit schedule properties with an intention to occupy the property of the defendant. Hence, the defendant rightly filed the application

[1] 2013 (4) ALD 347
[2] 2015 (2) ALD 206

invoking the provision of Order XXVI Rule 9 of the C.P.C. and the same is very much required to resolve the dispute between the parties. By virtue of the impugned order passed by the learned trial Court in appointing the advocate commissioner, no prejudice would be caused to the plaintiffs. The learned trial Court has rightly allowed the application by giving cogent reasons and there are no grounds to interfere with the impugned order passed by the learned trial Court. Hence, the civil revision petition filed by the plaintiffs is liable to be dismissed.

6.2. In support of his contentions, he relied upon the following judgments:

1. **V.A. Innova Alloy Steel Tech Pvt. Ltd. v. Avinash Daga**[3];
2. **P. Sreedevi v. IVLN Venkata Lakshmi Narsimha Prasad**[4]; and
3. **Sura Sunitha v. Cheruku Ramesh and another**[5]

Analysis :

7. Having considered the rival submissions made by the respective parties and after perusal of the material available on record, it reveals that the plaintiffs filed a suit for perpetual injunction restraining the defendant from interfering with the possession and enjoyment over the

[3] (2021) 1 ALD 92
[4] (2020) 4 ALT 433
[5] 2026 SCC OnLine TS 5651

Item Nos.1 to 3 of the suit schedule properties. The defendant filed an application in I.A.No.534 of 2025 on 24.10.2025 invoking the provisions of Order XXVI Rule 9 read with Section 151 of the C.P.C. seeking appointment of an advocate commissioner for identification of the suit lands within the boundaries, which are in Sy.Nos.273/4, 275/1 and 275/4, and to note down physical features of suit land in Item Nos.1 to 3 boundaries with the assistance of Assistant Director of Survey and Land Records, Mahabubabad. The defendant filed the written statement on 17.10.2025 and immediately thereafter, i.e., on 24.10.2025, he filed the present application in I.A.No.534 of 2025 on the ground that the plaintiffs have wrongly mentioned the boundaries in respect of the suit schedule properties and they are trying to occupy the property of the defendant. Even according to the learned counsel for the parties, the matter before the learned trial Court has not ripened for trial.

8. The record discloses that the nature of the relief sought in the suit is a simple suit for perpetual injunction. The defendant filed the written statement denying the averments made in the plaint and stated that the plaintiffs are wrongly mentioned the boundaries in respect of the suit schedule properties with an intention to claim his property. Whether the boundaries mentioned in the suit schedule property is correct or not, the parties have to adduce necessary evidence. Even before the matter has not ripened for trial, the defendant filed the

application not only noting down the physical features of the suit schedule properties, but also for identification of the suit lands within the boundaries, which are in Sy.Nos.273/4, 275/1 and 275/4, with the assistance of the Assistant Director of Survey and Land Records, Mahabuabad, and the learned trial Court allowed application, as prayed for.

9. It is relevant to mention that in a suit for perpetual injunction, the initial burden lies upon the plaintiff to prove his/her case and also the Court is having a power to appoint an advocate commissioner to note down the physical features of the suit schedule property at any point of time even before the commencement of trial. However, in the case on hand, the defendant filed an application seeking appointment of advocate commissioner for identification of the suit land within the boundaries, which are in Sy.Nos.273/4, 275/1 and 275/4, and to note down the physical features of the suit land with the assistance of the Assistant Director of Survey and Land Records, Mahabubad, even before the matter had not ripened for trial and if the plaintiffs have mentioned the wrong boundaries, the defendant can take the same as a defence in the suit and he is entitled to put forth his case during the course of trial and the appointment of advocate commissioner cannot be made at threshold, as the same amounts to gathering evidence.

10. It is also relevant to extract the provisions of Order XXVI Rule 9 of the Code of Civil Procedure, 1908, which reads as follows:

> "Order 26 Rules 9 –Commissions to make local investigations;
>
> In any suit in which the Court deems a local investigation to be requisite or proper for the purpose of elucidating any matter in dispute, or of ascertaining the market-value of any property, or the amount of any mesne profits or damages or annual net profits, the Court may issue a commission to such person as it thinks fit directing him to make such investigation and to report thereon to the Court:
>
> Provided that, where the State Government has made rules as to the persons to whom such commission shall be issued, the Court shall be bound by such rules."

11. The above said provision clearly envisages that in any suit, the Court deems a local investigation to be required for the purpose of elucidating any matter in dispute, the Court may issue a Commission of such person, as it needs for directing him to make such investigation and to report thereon to the Court.

12. In **A. Gopal Reddy** (*supra*) and in **Arvind Kumar Agarwal** (*supra*), the High Court of Andhra Pradesh specifically held that the initial burden lies upon the plaintiff to prove the identity of the property by adducing his own evidence and it is only after both the parties adducing their respective evidence, if any ambiguity prevails with reference to the identify of the property, that the Court on its own or on the application of either party, may appoint an Advocate Commissioner and further it was held that the Advocate Commissioner cannot be appointed at the threshold. In **M. Rajshekhar Reddy** (*supra*), this

Court reiterated the very same principle. In **Reddyshetti Srihar** (*supra),* this Court held that the respondent therein sought to identify and locate his land with the assistance of an advocate commissioner, which is impermissible in law, as it would amount to collecting evidence.

13. Insofar as the contention of the learned counsel for the respondent/defendant that there is no bar for appointing an advocate commissioner even before commencement of trial and an advocate commissioner can be appointed in a suit for perpetual injunction and it does not amounts to collecting of evidence, is concerned, it is not in dispute that in a suit for perpetual injunction, an advocate commissioner can be appointed at threshold for noting down the physical features of the property in dispute. However, in the case on hand, the defendant is not only seeking to note down the physical features, but also sought the other relief for identification of the suit schedule properties with the assistance of the Assistant Director of Survey and Land Records, Mahabubabad. Hence, this Court is of the considered view that in a case of this nature, the application for appointment of an advocate commissioner at threshold itself cannot be entertained, as the same would amount to gathering evidence.

14. The judgments relied upon the learned counsel for the respondent/defendant in **Sura Sunitha** (*supra*), this Court held that in a suit for permanent injunction simpliciter, the Court has the

discretion to appoint an Advocate Commissioner where there exists a serious dispute regarding the identification or boundaries of the suit schedule property. However, the Commissioner's report shall be confined to noting the physical features and identifying the property and shall not record any particulars regarding the person in actual possession, as possession is a matter to be determined by the Court on the basis of evidence adduced by the parties.

15. In **P. Sreedevi** (*supra*), this Court held that when the appellants claimed land in one survey number and the respondents claimed the property in a different survey number and where there was a genuine dispute regarding identification and localization of the properties, the trial Court ought to have first considered the application seeking appointment of a Surveyor. Further, this Court held that when the identity and location of the property are in dispute, a survey and demarcation with reference to relevant revenue and survey records would assist the Court in properly adjudicating the dispute. The trial Court should consider such an application before deciding the interim relief applications on the ground that the identity of the property has not been established.

16. In **Bandana Mutyalu** (*supra*), this Court held that an Advocate Commissioner may be appointed for local investigation even *ex parte*, without issuing prior notice to the opposite party, as Order XXVI Rule 9

CPC does not mandate issuance of notice before the appointment of a commissioner. The requirement under Order XXVI Rule 18 CPC contemplates issuance of notice after the appointment of the Commissioner and not before such appointment. Therefore, the Court is empowered to appoint an Advocate Commissioner *ex parte* whenever local investigation is necessary for proper adjudication of the dispute.

17. In **V.A. Innova Alloy Steel Tech Pvt. Ltd.** (*supra*), this Court held that when both parties claim that their properties are situated in two different survey numbers, and in such case, the intention of the Court below in appointing the advocate commissioner is to demarcate the two different survey numbers, but not to ascertain or cause any enquiry as to who is in possession of which property. The Commissioner could inspect the property with the assistance of the Tahsildar/Mandal Surveyor and village map, particularly when there was an attempt to alter the physical features of the property. The High Court expressly recognised that an Advocate Commissioner can be appointed even in a suit for perpetual injunction where a genuine boundary dispute requires demarcation and further held that appointment of an Advocate Commissioner to collect evidence or establish the possession of either party is not permissible under law.

18. The above said judgments relied upon by the learned counsel for the respondent/defendant are not applicable to the facts and circumstances of the case on the ground that there is a specific case of

the plaintiffs that they have correctly stated the boundaries of the suit schedule properties. Whether the boundaries mentioned in the suit schedule properties are correct or not, the party will adduce necessary evidence. However, the defendant, even before the commencement of trial, filed application seeking appointment of an Advocate Commissioner at the threshold for comprehensive relief and it would amount to gathering evidence.

19. A perusal of the impugned order reveals that the learned trial Court, without recording any specific reason as to why the appointment of advocate commissioner is required for adjudication of the dispute at threshold, only extracted the averments of the affidavit and counter in I.A.No.534 of 2025 as well as the judgments relied upon by the parties, allowed the application as prayed for, which is not permitted under law. In the event if the Court came to conclusion that to resolve the controversy involved, if the Court is unable to decide the matter basing on the material evidence on record and if the assistance of the Advocate Commissioner is required to resolve such controversy involved in the suit, the Court may appoint the Advocate Commissioner either suo-motu or basing on the application filed by either of the parties and that stage is not yet reached in the present case. Hence, this Court is of the considered view that the application filed by the defendant for appointment of advocate commissioner for identification of the suit lands in Sy.Nos.273/4, 275/1 and 275/4 and to note down physical

features of suit land with the assistance of Assistant Director of Survey and Land Records, Mahabubabad, at this stage, amounts to gathering of evidence.

20. For the foregoing reasons as well as the precedent decisions, the impugned order dated 16.06.2026 passed by the learned trial Court in I.A.No.534 of 2025 in O.S.No.131 of 2025, is liable to be set aside and accordingly, set aside.

21. In the result, the Civil Revision Petition is allowed. However, this order will not preclude the learned trial Court from appointing a Commissioner/Advocate Commissioner either suo motu or at the instance of either of the parties, if, upon consideration of the evidence adduced by the parties, the learned trial Court finds that it is unable to effectively decide the matter without the assistance of an Commissioner/Advocate Commissioner and that such appointment is necessary for resolving the dispute. No order as to costs.

Miscellaneous application pending, if any, shall stand closed.

J.SREENIVAS RAO, J

Date: 04.11.2026
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