
(2025) 10 TH CK 0046

Telangana HC

Case No: CRP No.2226 Of 2025

Reddyshetty Srihari
and Another

APPELLANT

Vs

Surineni Chakradhar
Rao

RESPONDENT

Date of Decision: Oct. 15, 2025

Acts Referred:

- Constitution of India, 1950 — Article 227
- Civil Procedure Code, 1908 — Section 151, Order 26 Rule 9
- Rights of Lands and Pattadar Passbook Act, 1971 — Section 5

Hon'ble Judges: B.R.Madhusudhan Rao, J

Bench: Single Bench

Advocate: Thallapally Rajasekhar, Y Prasanna Kumar

Final Decision: Allowed

Judgement

B.R.Madhusudhan Rao, J

1. The Civil Revision Petition is filed under Article 227 of the Constitution of India assailing the Order passed by the Senior Civil Judge, at Medak in I.A.No.292 of 2022 in OS No.17 of 2023 (Old Suit No.54 of 2021), dated 19.06.2025.

2. Petitioners are the respondents, and the respondent is the petitioner in I.A.No.292 of 2022 filed under Order 26 Rule 9 r/w Section 151 of Civil Procedure Code, 1908 to appoint an Advocate Commissioner for identification of the suit schedule land i.e., Sy.No.125/E3 situated at Gangapur Village of Haveli, Ghanpur

3.1. Learned counsel for the petitioners-respondents submits that the Court below failed to appreciate the pleadings of the plaint, petition and written statement and misinterpreted the orders of the High Court in CRP No.2136 of 2022. Appointment of Advocate Commissioner to identify the suit schedule property amounts to collection of evidence and the respondent-petitioner purchased the land by way of simple sale deed, which does not disclose any boundaries to the property, the said document is regularised after a period of 12 years, and the appointment of Advocate Commissioner petition is a premature one. Respondent-petitioner is not in possession of the property and identification of the property under Sada bainama is in question. It is pertinent to mention that injunction petition filed by the respondent-petitioner in I.A.No.252 of 2021 seeking ad interim injunction was dismissed on the ground that there is no prima facie case and the respondent-petitioner has carried the matter in Appeal vide CMA.No.1 of 2022 before the Principal District and Sessions Judge at Medak, the same came to be dismissed vide order dated 10.11.2021, against which the respondent-petitioner has preferred CRP No.2136 of 2022 before the High Court which also came to be dismissed on 21.11.2022.

3.2. The Court below ought to have discussed the pleadings of the parties while deciding the application for appointment of Advocate Commissioner instead thereof, has reproduced the part of pleadings and stated that ascertaining the boundaries of the suit land is necessary for proper adjudication, except that there are no other reasons mentioned in the order and the Court below failed to consider that there are multiplicity of litigation created by the respondent-petitioner and his family members only to harass the petitioners-respondents and the High Court in the CRP has clarified that the availability of the suit land can only be settled after the trial. The Court below failed to consider the age of the respondent-petitioner on the date of sada bainama i.e., 28.03.1998, if his age is calculated as per the affidavit he should be 12 years. Hence, the purchasing of the property by minor itself is a question, the transaction itself is doubtful. The Court below failed to see that no document is filed by the respondent-petitioner. The document - 1B (ROR) dated 07.10.2020 reflects the suit land is inherited. However, the respondent-petitioner claims that he has purchased the property. The Court below failed to appreciate the position of law that, if it comes to a conclusion to resolve the controversy involved and unable to decide the matter based on the material evidence on record, if the Advocate Commissioner's assistance is required to resolve the controversy involved in the suit then only the appointment of Advocate Commissioner either Suo moto or basing on the application filed by either parties be considered, the stage is not yet reached, and there is no prima facie case in favour of the respondent-petitioner. Learned Counsel to substantiate his contention has relied on the decisions in the cases of (1) A.Gopal Reddy Vs. Subramanyam Reddy and another¹, (2) Dammalapati Satyanarayana and Others Vs. Datla Venkata Ramabhadra Raju @ DVR Raju and another², (3) Arvind Kumar Agarwal Vs. M/s. Legend Estates (P) Ltd.³, (4) Akula Mallappa and Others Vs. Gangishetty Bikshapathi and Others⁴, (5) Vasupalli Danayya Vs. Pinnmaraju Srinivas⁵, (6) Rani Suhasini Vs. Md. Abdul Mateen⁶, (7) Rachakonda Mallamma Vs. Rachakonda Ramesh⁷, (8) Budartha Janaki Vs. Sikha Krishna and Another⁸.

4.1. Learned Senior Counsel for the respondent-petitioner submits that the High Court after prolonged hearing of CRP No.2136 of 2022 was pleased to dismiss the same on 21.11.2022 giving liberty to the respondent-petitioner to approach/move application before Revenue Authorities seeking to conduct survey and demarcate the suit schedule land (bearing Sy.No.125/E3) to an extent of Ac.0-30 gts., situated at Gangapur Village of Haveli, Ghanpur Mandal, Medak District. In terms of the above said order the respondent-petitioner has filed an application for appointment of Commissioner for identification of the suit schedule property, and the learned trial Court after going through the facts on record has rightly allowed the application by appointing an Advocate Commissioner. Ascertaining the boundaries of the suit land is necessary for proper adjudication. It is further observed that in I.A. No.252 of 2021 in Para 12, it is mentioned that “after deducting the property of respondent (Petitioners herein), there is existing Ac.0-30 guntas of land in which the name of the petitioner-plaintiff (respondent herein) is mentioned”. Petitioners-respondents made heavy reliance on documents at serial Nos.24 to 30 (Exs.R1 to R8) marked in I.A.No.252 of 2021 in OS.No.17 of 2023.

4.2. The documents relied by the petitioners-respondents (Exs.R1 to R8) marked in IA.No.252 of 2021 does not disclose about the suit land in respect of Sy.No.125/E3 to an extent of Ac.0-30 guntas. Whereas, the documents filed by the respondent-petitioner (Exs.P1 to P9 in IA.No.252 of 2021) speaks in respect of the suit schedule property.

4.3. The Tahsildar, Medak issued ROR certificate, which speaks about the transaction between M.Vijay Mohan and the respondent-petitioner and the same was regularised in terms of Section 5-A (4), Rule 22 (5)(ii) of Rights of Lands and Pattadar Passbook Act, 1971, the transfer of land was completed in terms of the proceedings dated 05.07.2010, which squarely falls under G.O.1445, Rev (SS.1) Dept. dated 05.12.2008. In support of his contention, has relied on the decisions in the cases of (1) Haryana Waqf Board Vs. Shanti Sarup and others⁹ (2) Sri Krishna Kumar V.Shah Vs. T Shanker Singh¹⁰, (3) G.Surender Reddy Vs. Smt. M.Lakshmi and others¹¹, (4) Badana Mutyalu and another Vs. Palli Appalaraju¹², (5) P.Sreedevi Vs. IVLN Venkata Lakshmi Narsimha Prasad¹³, (6) Bhupendra Vs. Homraj¹⁴, (7) Tangella Ranga Reddy Vs. Koppula Srinivas Reddy and another¹⁵.

5. Learned Counsel on record have also filed their written submissions in support of their contentions.

6. Heard counsel on record, perused the material.

7. Now the point for consideration is : Whether the order passed by the learned Senior Civil Judge at Medak in I.A.No.292 of 2022 in OS.No.17 of 2023 dated 19.06.2025 suffers from any perversity or illegality. If so, does it requires interference of this court?
8. Power of the High Court under Article 227 is supervisory and is exercised to ensure courts and tribunals under its supervision act within the limits of their jurisdiction conferred by law. This power is to be sparingly exercised in cases where errors are apparent on the face of record, occasioning grave injustice by the court or tribunal assuming jurisdiction which it does not have, failing to exercise jurisdiction which it does have, or exercising its jurisdiction in a perverse manner : (See K.Valarmathi and Others Vs. Kumaresan, 2025 SCC OnLine SC 985).
9. Respondent-plaintiff has filed suit for perpetual injunction against the petitioners-defendants in respect of agricultural land bearing Sy.No.125/E3 to an extent of Ac.0-30 guntas bounded by East: Road leads from Gangapur Village to Main Road; West: land of Dr.Madhusudhan Rao; North: land of Dr. Madhusudhan Rao; and South: land of Dr. Madhusudhan Rao situated at Gangapur Village of Haveli, Ghanpur Mandal, Medak District. It is stated in the plaint that originally, the suit schedule land belongs to S.Narsinga Rao from him M.Vijay Mohan purchased the same under registered sale deed vide document No.734/1996, dated 05.06.1996. From M.Vijay Mohan respondent-plaintiff has purchased the suit schedule property under ordinary sale deed dated 28.03.1998, after purchase of the same he presented the deed before the Tahsildar for mutation and after enquiry, Tahsildar has issued 1-B on 05.07.2010 and Pattadar passbook is also issued in his favour.
10. Petitioners who are the defendants in the suit in OS No.17 of 2023 (Old No.54 of 2021) filed the written statement and contended that they are the owners and possessors of agricultural land in Sy.No. 125/E to an extent of Ac.0-30 guntas and in Sy.No.125/E/2 admeasuring Ac.02-00 guntas, apart from that they are also holding adjacent land in Sy.No.108/A to an extent of Ac.0-05 guntas, and in Sy.No.181 admeasuring Ac.0-8 guntas, and in Sy.No.124 to an extent of Ac.04-20 guntas. Thus in total, they are in possession of Acs.07-23 guntas at Gangapur Shivar, Haveli, Ghanpur Mandal. The boundaries mentioned by the plaintiff (respondent herein) are totally wrong and there is no land belonging to Dr.Madhusudhan Rao in Sy.No.125. The suit schedule property does not exist and three other suits are pending between the parties in respect of their property.
11. Respondent-plaintiff along with the suit has also filed application in IA.No.252 of 2021 for grant of ad interim injunction. Petitioner-respondent has filed his counter and Exs.P1 to P9 and Exs.R1 to R17 are marked on behalf of the parties and they are as under:

11.1. Ex.P1 is the registered sale deed of M.Vijay Mohan who is the vendor of the respondent-petitioner dated 05.06.1996 vide document No.734 of 1996. The extent is Ac.0-30 guntas, survey number shown therein is 125. Ex.P2 is the copy of 1-B namuna dated 05.07.2010, which shows Sy.No.125 and extent is Ac.0-30 guntas. Ex.P3 is the Mee-seva copy of 1-B Namuna, dated 07.10.2020 which shows the name of the Pattadar as Surineni Chakradhar Rao (respondent herein) and survey number shown is 125/E3, and in column Nos.9 and 10 it is shown as Anuvamshamu (ancestral) which is also reflected in Ex.P5-Pattadar pass-book. Ex.P6-Electricity bills, Ex.P7-Photographs with CD, Exs.P8 and P9 are pahanies for the year 2017-2018, 2019-2020.

11.2. Ex.R1-agreement of sale cum GPA vide Document No.416/2018 dated 06.02.2018; Ex.R2-Registered sale deed vide Document No.3204/2019 dated 30.05.2019; Ex.R3-Registered sale deed vide Document No.3205/2019; Ex.R4-Registered sale deed vide Document No.735/1996 dated 05.06.1996, Exs.R5 to R7 are Encumbrance Certificates, Ex.R8-Pattadar Pass Book of Surineni Laxman Rao in

respect of land in Sy.No.125/■1 admeasuring Ac.0-24 gts., Ex.R9-CC of affidavit in IA.No.17 of 2021 in OS.No.3 of 2021, Ex.R10-CC of plaint in OS.No.3 of 2021 on the file of Senior Civil Judge, Medak, R11-CC of order in IA.No.37 of 2021 in IA.No.17 of 2021 in OS.No.3 of 2021, Ex.R12-CC of plaint in OS.No.4 of 2021, R13-CC of docket order in IA.No.29 of 2021 in OS.No.4 of 2021, R14-Bank statement, R15-Registered sale deed dated 05.06.1996 vide Document No.734/1996, Exs.R16 and R17 are Agreements dated 02-01-2020.

12.1. The learned trial Court after enquiry has dismissed the ad interim injunction application (IA.No.252 of 2021) on 10.11.2021, holding that both the properties exist and the way to identify the property is through boundaries and the petitioner (respondent herein) has not filed simple sale deed or its copy to show the existence of property within the boundaries, which is serious infirmity in the case. Respondent herein (petitioner therein) aggrieved by the order in IA.No.252 of 2021 dated 10.11.2021 preferred C.M.A. before the Principal District and Sessions Judge at Medak, which came to be dismissed on 06.07.2022.

12.2. Respondent herein (petitioner therein) aggrieved by the order in CMA No.1 of 2022 dated 06.07.2022 has preferred CRP No.2136 of 2022 before the High Court. The High Court vide order dated 21.11.2022 has dismissed the CRP. The observations made in the CRP are as under:

“A perusal of the documents filed by the petitioner and respondents before the trial Court as well as the lower appellate Court shows that the I.A.No.252 of 2021 seeking temporary injunction was dismissed mainly on the ground that the petitioner has not filed the sada sale deed, under which, he has purchased the suit schedule land and that the petitioner has approached the Courts with unclean hands. Further the mutation and issuance of pattadar pass books and title deeds were done on the basis of the sada sale deed after a gap of more than 12 years from the date of purchase of the land. The lower appellate Court has also confirmed the said order of the trial Court on similar grounds. Both the Courts were prima facie not satisfied with regard to the physical possession of the plaintiff over the suit schedule land.

One of the cardinal principles of law while granting interim injunction orders in a suit for restraining the respondents from interfering with the possession of the petitioner is that the plaintiff should have prima facie title, he should be in physical possession of the subject land as on the date of filing of the suit and if no interim injunction is granted, the plaintiff will suffer irreparable loss. In the present case, admittedly, the petitioner is relying on the sada sale deed which was executed on 28.03.1998 but the said sada sale deed was regularized after a gap of more than 12 years of the execution of the said sada sale deed.

Moreover, as seen from the sada sale deed, there are no boundaries mentioned in the said sada sale deed. Even though the petitioner is placing heavy reliance on the registered sale deed of his vendor bearing No.734/96 dated 05.06.1996, wherein, the boundaries have been mentioned, but, the respondent has taken a specific stand that Ac.0.30 guntas of land claimed by the petitioner is not available on the ground physically. Whether the suit schedule land is available on ground or not is a matter which can only be settled after the trial is over. In the absence of any evidence to support the physical possession of the petitioner over the suit schedule land, no order can be passed at this stage. Having regard to the same and also that the scope of the Civil Revision Petition filed under Article 227 of the Constitution of India is very limited, more particularly, when both the trial Court and the lower appellate Court have come to the conclusion that the petitioner is not in physical possession of the suit schedule land and the finding of fact that the suit schedule land is physically not available on the ground, the CRP has to be dismissed. Even if the contention of the petitioner that the earlier suits filed by the sister of the petitioner i.e., O.S.Nos.3 and 4 of 2021 pertain to the partition are nothing to do with the suit schedule land, is also taken to be true, the fact remains that the petitioner having filed O.S.No.54 of 2021 for perpetual injunction and also filed I.A. seeking temporary injunction, he has to first establish that the land is physically available on the ground and that he is in possession of the suit schedule land, more particularly when the respondents are vehemently asserting that there is any land physically available on ground. Unless and until the suit schedule land is surveyed and demarcated by the competent authority and evidence is adduced by the petitioner to show that he is in physical possession of the land demarcated, no relief can be granted in the present Civil Revision Petition. Further, in view of concurrent finding of fact recorded by the trial Court as well as the lower appellate Court, the interference by this Court in the order under revision, under Article 227 of the Constitution of India is not permissible, more so, when there is nothing on record to show that the petitioner is in physical possession of the suit schedule land and the suit schedule land is physically available on ground. Having regard to the above, this Civil Revision is dismissed, however, leaving it open to the petitioner to file an appropriate application before the revenue authorities seeking to conduct survey and demarcation of the suit schedule land, or before the trial Court seeking appointment of Advocate Commissioner to conduct survey and demarcate the suit schedule land with the assistance of the Mandal Surveyor, if the petitioner is so advised.

13. It is to be noted here that respondent-petitioner has filed sada bainama during the pendency of CRP No.2136 of 2022 by way of a Memo dated 29.10.2022. As rightly contended by the petitioner's counsel that the sada bainama dated 28.03.1998 does not contain any boundaries. The survey number shown therein is 125 and extent is Ac.0-30 guntas. Vendor name is shown as M.Vijay Mohan in favour of the respondent-petitioner.

14.1. Smt. Surineni Akhila daughter of Madhusudhan Rao who is the sister of the respondent-petitioner has filed a suit for partition (Ex.R10 marked in IA.No.252 of 2021) vide OS.No.3 of 2021 on the file of Senior Civil Judge at Medak against her father, petitioners and respondent herein to divide the suit schedule property into three shares and for allotment of one such share to her. The schedule property shown is Acs.07-23 guntas which is covered by Exs.R2 and R3 registered sale deeds in favour of the petitioners in Sy.No.103/■ to an extent of Ac.0-05 gts., Sy.No.181 to an extent of Ac.0.08 gts.,

Sy.No.125/■, to an extent of Ac.0-30 gts., Sy.No.125/■2 to an extent of Ac.2-00 gts., and in Sy.No.124, extent Ac.4-20 gts.

14.2. S.Akhila has obtained an interim order in IA.No.17 of 2021 in OS.No.3 of 2021 restraining the defendant Nos.1 to 4 therein from alienating the suit schedule property covered by OS.No.3 of 2021. The said interim order was vacated on the application filed by the petitioners in IA.No.37 of 2021 in IA.No.17 of 2021 in OS.No.3 of 2021, vide order dated 05.03.2021 (Ex.R11).

15.1. Petitioners have also filed suit for perpetual injunction vide OS.No.4 of 2021 on the file of Senior Civil Judge at Medak in respect of Acs.07-23 guntas against Akhila, respondent herein and his father and 5 others (Ex.R12) for perpetual injunction restraining their men and agents or any person claiming through them from interfering in their peaceful possession and enjoyment over the suit schedule property.

15.2. Petitioners have also obtained ad interim injunction order in IA.No.29 of 2021 in OS No.4 of 2021 restraining the respondents therein from interfering with their peaceful possession and enjoyment of their properties in respect of Item Nos.1 and 2 of the suit schedule properties. The same is extended as per orders in IA.No.29 of 2021 in OS.No.4 of 2021 dated 19.02.2021 (Ex.R13).

16. Respondent herein and his father by name Madhusudhan Rao have filed suit in OS No.103 of 2020 for declaration of title, cancellation of registered sale deeds document No.3204/19 and 3205/19 (Exs.R2 and R3) in respect of Acs.07-23 guntas before Principal Junior Civil Judge at Medak.

17. Learned counsel for the petitioners submits that the suit in OS.No.17 of 2023 is posted for issues.

18.1. In A.Gopal Reddy's case¹, the High Court observed that "The occasion to appoint an Advocate Commissioner would arise, if only the trial of the suit is in progress and a typical question, which needs the examination by a Commissioner arises. The appointment of a Commissioner cannot be made at the

threshold. Such an effort would be treated as a measure to gather evidenceâ€■.

18.2. In Dammalapari Satyanarayanaâ€™s case2, the High Court observed that "the Advocate Commissioner shall undertake localization of the suit schedule property with the help of a competent surveyor, basing on the title deeds of both the parties. It must be noted that the so-called title deeds must be accepted by the Court in evidence, before they constitute the basis for identification of the property. The Admissibility, relevance etc., of the sale deeds can be undertaken only at the stage of recording evidence. The demarcation of the land with reference to location, survey number etc., must be with reference to the title deeds, which are admitted by the court in evidence. If the report is submitted, even before the evidence is adduced, a stage may come, where the whole trial will revolve around such report".

18.3. In Arvind Kumars Agarwalâ€™s case3, the High Court observed that "A perusal of the plaint shows that the petitioner has given specific boundaries to his property. Therefore, the initial burden lies on him to prove the identity of his property by adducing his own evidence. It is only after both the parties adducing their respective evidence, if any ambiguity prevails with reference to the identity of the property, that the Court on its own or on the application of either party, may appoint an Advocate-Commissioner. In my opinion, in a case of this nature, application for appointment of an Advocate-Commissioner at the threshold itself cannot be entertained as the same will amount to gathering evidenceâ€■.

18.4. In Akula Mallappaâ€™s case4, the High Court observed that "the reasoning given by the trial Court stating that the boundary dispute is required to be resolved in the suit is totally erroneous and in fact the said issue does not fall for consideration at all in an injunction suitâ€■.

18.5. In Vasupalli Danayyaâ€™s case5, the High Court observed that "Jurisprudence on the appointment of Advocate commissioners particularly in a suit for injunction, is not in drought. In a plethora of decisions, it was held that there is no embargo on appointment of Advocate commissioner even in a suit for perpetual injunction, if the circumstances so warrant. The thumb rule is that generally the Courts will be at loath to appoint Advocate commissioner for fishing out the evidence i.e. which of the two parties is in possession of plaint schedule property. Such a fact has to be established by the parties by way of cogent evidence for appreciation of the Court and it is not for the Court to collect the evidence on such fact by appointment of Commissionerâ€■.

18.6. In Rani Suhasiniâ€™s case6, the High Court observed that "The suit is filed for specific performance of an agreement of sale dated 18.11.2008 and for recovery of possession. When the suit is filed for specific performance and recovery of possession and when the earlier I.A., for interim injunction filed

by the plaintiff was dismissed, again the present application for appointment of Advocate Commissioner to note down the physical features of the suit schedule property cannot be maintained■.

18.7. In *Rachakonda Mallamma*’s case⁷, the High Court observed that “the plaintiff as well as the defendants are claiming the same property to be under their possession and while the plaintiff is relying upon a registered sale deed, the defendants are relying upon an unregistered simple sale deed. The defendants have also alleged that the registered sale deed is sham and bogus. In such circumstances, the veracity of the registered document and also the boundaries mentioned therein would have to be proved by the defendants by leading evidence. The presumption to be drawn in the case of a registered document is that it is a valid and genuine document. Any assertion or allegation to the contrary would have to be proved and the onus of proving the same would be on the person making such an allegation. By appointment of an Advocate Commissioner, the intention of the defendants seems to be for collection of evidence■.

18.8. In *Budarthi Janaki*’s case⁸, the High Court observed that “the trial Court recorded a specific finding that though the evidence of defendants was closed, they did not file any document to show their right or interest over the subject matter of the property except Exs.B.1 to B.4. Therefore, in the facts and circumstances of the instant case, the impugned orders passed by the trial Court dismissing the applications of the petitioners to appoint an Advocate-Commissioner to locate the suit schedule properties with the help of Mandal Surveyor to ascertain whether the property is in Sy.No.802 or 805 do not suffer from any infirmity or illegality warranting interference by this Court in exercise of powers under Article 227 of the Constitution of India■.

19. Learned Senior Counsel for the respondent submits that *sada bainama* dated 28.03.1998 of the respondent-petitioner is regularised in terms of Section 5-A(4) r/w Rule 22(5)(ii) of AP Rights in Land and Patadar Passbook Act, 1971.

20.1. In *Haryana Waqf Board*’s case⁹, the Supreme Court observed that “it was a case of demarcation of the disputed land, it was appropriate for the Court to direct the investigation by appointing a local Commissioner under Order 26 Rule 9 of CPC as the controversy between the parties is that the parties had adjacent lands. The decision of the Supreme Court is not applicable to the case on hand in view of the fact that the respondent-petitioner is seeking appointment of Advocate Commissioner to locate the property.

20.2. In *Sri Krishna Kumar*’s case¹⁰, the High Court observed that “if the Advocate Commissioner makes a local inspection and note down the physical features of the suit schedule property and file his/her report, the same aids the trial Court for better appreciation of the evidence that may be let in by the parties

during the course of trial. In the present case, respondent is seeking for identification/location of the property. The High Court further held that Advocate Commissioner can be appointed even in a suit filed for injunction even before adducing evidence, so that the parties can lead evidence accordingly. It further held that if there is a serious dispute with regard to the nature of the subject land, it is appropriate to appoint an Advocate Commissioner.

20.3. In G.Surender Reddy's case¹¹, the High Court observed that "Advocate Commissioner was appointed by directing both the parties to maintain status quo until the return of warrant by the II Additional District and Sessions Judge, Ranga Reddy at LB Nagar.

20.4. In Badana Mutyalu's case¹², the High Court observed that "in situation where there is a controversy as to identification, location or measurement of the land, local investigation should be done at an early stage, so that the parties are aware of the report of the Commissioner and go to trial prepared. The party against whom the report may have gone may choose to adduce evidence in rebuttal".

20.5. In P.Sreedevi's case¹³, the Division Bench of the High Court observed that "when there is a dispute of localization or demarcation of the property, the best course of action is to appoint an Advocate Commissioner/ Surveyor for localization".

20.6. In Bhupendra's case¹⁴, the High Court of Bombay (Nagpur Bench) observed that "in cases of boundary dispute, even if decree is passed, it would be meaningless as it may remain inexecutable in absence of authentic map and remanded the matter back to the trial Court with a direction to appoint an Advocate Commissioner".

20.7. In Tangella Ranga Reddy's case¹⁵, the High Court observed that "though the Courts are normally reluctant to appoint Commissioner for noting physical features of the suit schedule property particularly in a suit for injunction since the same would amount to collecting evidence in favour of one of the parties. When there is a dispute regarding boundaries and extents of the properties and the survey numbers in which they were located, the facts have to be physically verified and measuring of the land on the spot by the Surveyor would become necessary".

21. There is no dispute with regard to the proposition of law laid down by the High Courts. The case on hand is a peculiar case where under suits filed by the parties are pending in respect of Sy.No.125 and other survey numbers.

22. The reasons for dismissal of IA.No.252 of 2021 dated 10.11.2021 for grant of temporary injunction is that the simple sale deed is not filed by the petitioner (respondent herein) before the Court for its perusal, which is a serious infirmity in the case. Petitioner stated that having purchased the property under sale deed, his name is mutated in the Revenue Records and Pattadar passbooks were issued under Ex.P5, and 1-B namuna was issued under Exs.P2 and P3.. Here it is pertinent to mention that Ex.P2 reveals that the petitioner obtained the property as Pattadar, however, Pattadar passbook under Ex.P5, and 1-B namuna under Ex.P3 shows that the petitioner obtained the property under inheritance. This clarity is not explained by the petitioner and thus the petitioner is unclear under what capacity he has obtained the property. And the learned trial Court further observed in Para 13 that the petitioner (respondent herein) has not filed the simple sale deed or its copy to show existence of property within the boundaries which is serious infirmity in the case of the petition.

23. The learned trial Court in the impugned order has taken para No.12 of the order in IA.No.252 of 2021 dated 10.11.2021 that there exists Ac.0-30 guntas of land, which is in the name of the petitioner (respondent herein). The learned trial Court has failed to look into para Nos.11 and 13 of the order.

24. As stated supra, there are no boundaries to sada bainama dated 28.03.1998. There is no material on record to show that when the respondent-petitioner-plaintiff is claiming land in Sy.No.125 admeasuring Ac.0-30 guntas, which is in conformity with Ex.P2 marked in IA No.252 of 2021, but in Ex.P3 Mee-seva 1-B Namuna shows the by number as 125/E3. Respondent-petitioner has not placed any record to show how the by number is allotted in Sy.No.125 so also he has not filed any record to show what is the total extent of Sy.No.125.

25. As stated supra in Para Nos.14.1 to 16, civil suits are filed by the parties in respect of Sy.No.125 and other Survey numbers apart from the suit filed by the respondent's sister for partition and the suit filed by the respondent along with his father for declaration of title and cancellation of documents. Respondent-petitioner is blowing hot and cold at the same time, at one breath he stated that he has purchased the plaint schedule property under sada bainama but the record speaks otherwise that the property is ancestral properties. The learned trial Court has not appreciated the facts of the case while deciding the application for appointment of Advocate Commissioner. Respondent-petitioner himself is not sure about the boundaries.

26.1. The High Court in the order in CRP No.2136 of 2022 dated 21.11.2022 left it open to the petitioner to file an appropriate application before the Revenue Authorities seeking to conduct survey and demarcation of the suit schedule land or before the trial Court.

26.2. The Respondent-petitioner prayer in IA.No.292 of 2022 is for identification (location) of suit land in Sy.No.125/E3 to an extent of Ac.0-30 gts.

26.3. Demarcation is the physical process of setting and marking property boundaries that is to physically mark and define the exact boundaries of a specific land.

26.4. Identification is the broader process of classifying land based on its characteristics or uses, often through a survey number. Identification involves categorising the land.

26.5. The prayer in the appointment of Advocate Commissioner itself goes to show that the respondent-petitioner with the help of an Advocate Commissioner wanted to identify/locate his land in Sy.No.125 which is not permissible under law, amounts to collection of evidence.

27. The order passed by the learned trial Court is perverse and requires interference of this Court under Article 227 of the Constitution. The learned trial Court has misread the important aspects and the observations made by the High Court in CRP No.2136 of 2022 dated 21.11.2022. Respondent-petitioner is not entitled for appointment of Advocate Commissioner for identification of his property and the order passed by the learned trial Court in IA No.292 of 2022 dated 19.06.2025 is liable to be set aside.

28. In the result, CRP No.2226 of 2025 is allowed. Order passed by the learned Senior Civil Judge at Medak in IA.No.292 of 2022 in OS No.17 of 2023 dated 19.06.2025 is set aside without costs.

Interim orders if any, shall stand vacated. Miscellaneous application/s shall stand closed.