

**IN THE HIGH COURT OF JUDICATURE AT
HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE
OF
ANDHRA PRADESH**

CIVIL REVISION PETITION No.2840 of 2015

Between:

Manchikanti Pedda Rangaiah Setty and 2 others
... Petitioners

and

T h e Proddatur Municipality rep. by its Municipal
Commissioner and 10 others
... Respondents

DATE OF JUDGEMENT PRONOUNCED: 23-07-2015

SUBMITTED FOR APPROVAL:

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgment? | 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 |

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO
CIVIL REVISION PETITION No.2840 of 2015

ORDER :

This revision is filed by the petitioners, who are petitioners/plaintiffs aggrieved by the order dated 05.06.2015 in I.A. No.610 of 2015 in O.S. No.141 of 2007 on the file of Senior Civil Judge, Proddatur which was filed by the petitioners/plaintiffs under Order XXVI Rule 9 C.P.C seeking to redirect the advocate-commissioner with the assistance of surveyor from the revenue division or district and with the aid of electronic total station to take survey over the schedule property and to localize the property and to note down the existing features.

2) Heard the learned counsel for the petitioners and the respondents before admission and before issuing notice to the respondents and perused the material on record including the impugned order passed by the learned Senior Civil Judge.

3) The plaintiff filed the suit for declaration of title that he is owner of Ac.0-12 cents each in S.Nos.472/2 and 473 which he claims left over property after the Government of India during the British regime acquired part of the land in the year 1915. The present suit is filed for the claim of Ac.0-24 cents in two survey numbers.

Plaint schedule is given within the specific boundaries.

The petitioner suppressed the factum of the earlier two reports of two commissioners, as if that there is only one report from the affidavit averments in saying the Commissioner named was one Prasad, which in fact mentioned as first Commissioner's report executed the warrant and found the plaint schedule described property lying in S.No.417/2, against the plaintiff's claim of the land is situated in S.No.472/2 and 473 of Proddatur. In fact a second commissioner was appointed by the learned Senior Civil Judge by name B.C.Madaiah and he also filed report stating the plaint schedule is lying in S.No.417/2 and not as claimed by plaintiffs in S.No.472 or 473. Order of the lower Court shows no objections filed even after the second commissioner's report, besides the factum of the 1st report not even quashed before appointing a second commissioner. Further those two reports were made final by the year 2008. Undisputedly, now after seven years the petitioner come forward in saying a survey to be done with the aid of latest equipment by electronic total station to localize the existing properties. It is thus a misconceived prayer as rightly pointed out by the lower Court by referring to the expressions of this Court in 2006(1) ALD 372 and 2010(2) ALD 343.

4) Having regard to the above, there are no grounds to admit the revision against the impugned order of the

learned Senior Civil Judge. Petitioner is at liberty to call for the Commissioners to the witness box and cross-examine, so also the surveyor who assisted if at all to point out any discrepancy and then for the Court to consider any need to re-entrust the second commission warrant from anything elicited during trial worth for such recourse.

5) With the above observations, the revision is disposed of. As a sequel, miscellaneous petitions pending, if any, in this criminal petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

23.07.2015
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