

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

Civil Revision Petition No.279 of 2015

Dated 13th February, 2015

Between:

Sri Trishul Reddy

...Petitioner

And

K.Nagaiah and others

...Respondents

Counsel for the petitioner: Sri Eranki Phani Kumar

Counsel for the respondents: ----

The Court made the following:

ORDER:

This civil revision petition arises out of order, dated 04.08.2014, in I.A.No.873 of 2013 in O.S.No.2087 of 2012, on the file of the learned II Additional Senior Civil Judge, Ranga Reddy District.

Respondent Nos.1 to 5 filed the above-mentioned suit for injunction *simplicitor* against nine persons, including the petitioner herein, who is defendant No.6 in the suit. In the suit, the petitioner has filed I.A.No.873 of 2013 under Order XXVI Rule 9 CPC for appointment of Surveyor as Commissioner for demarcating his property and to find out whether the same is situated in Survey No.157 or Survey No.158 of Chiryal Village, Keesara Mandal, Ranga Reddy District. This application has been dismissed by the lower Court mainly on the ground that the petitioner has filed the application with the purpose of collecting evidence.

At the hearing, Sri Eranki Phani Kumar, learned counsel for the petitioner, submitted that as the plaint boundaries are vague and

ambiguous, in the guise of pendency of the suit, the respondents have been interfering with the possession of the petitioner with respect to his plot which is in no way concerned with the plaintiff.

In my opinion, being the defendant, the petitioner can seek dismissal of the suit on the ground that the pleadings and the schedule of the plaint are vague and ambiguous. Being the plaintiffs, burden lies on respondent Nos.1 to 5 to establish the identity of the properties and prove their possession in respect thereof. Therefore, it is not necessary for the petitioner to undertake the task of respondent Nos.1 to 5 by getting the Surveyor appointed for identifying the plaint schedule lands and for demarcation of the boundaries. If respondent Nos.1 to 5 have been unduly interfering with the petitioner's possession, the latter shall be free to avail appropriate remedy in accordance with law.

For the above-mentioned reasons, the civil revision petition is dismissed subject to the observations made above.

As a sequel to dismissal of the civil revision petition, C.R.P.M.P.No.344 of 2015 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

13th February, 2015
VGB