

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

CIVIL REVISION PETITION No.3640 of 2015

-

11.09.2015

Between:

Annam Venkata Subba Rao and others

...Petitioners

And

The State of Andhra Pradesh,

represented by the District Collector, Guntur and others

...Respondents

Counsel for the petitioners: Mr.Ch.Danamjaya, for Mr.V.Ramu

Counsel for the respondents: --

The Court made the following:

-

-

-

-

-

-

-

-

-

-

ORDER:

This civil revision petition arises out of order, dated 08.04.2015, in I.A.No.816 of 2014 in O.S.No.155 of 2011 on the file of the Principal Junior Civil Judge, Narasaraopet, Guntur.

The petitioners filed the aforementioned suit for permanent injunction restraining the respondents from causing any obstruction to the water drawn from the *bode* canal. It is the pleaded case of the petitioners that the *bode* canal is in existence in survey No.101, which is shown in the suit schedule property. However, it is the pleaded case of the respondents that the *bode* canal is not situated in the suit schedule property, but the same is situated in survey No.99. The petitioners filed the aforementioned I.A. for appointment of an Advocate Commissioner to note down the physical features of the suit schedule property in order to find out whether the *bode* canal is situated in the suit schedule property or not. The lower Court, by the order under revision, dismissed the I.A.

Mr.Ch.Danamjaya, learned counsel representing Mr.V.Ramu, learned counsel for the petitioners, strenuously submitted that the lower Court has committed a serious error in dismissing the I.A. by holding that an Advocate Commissioner is not expected to find the existence or non-existence of an irrigation canal on the suit schedule land/property.

A careful perusal of the order of the lower Court would show that the dismissal of the I.A. is based on the reasoning that having regard to the nature of the dispute as to whether the *bode* canal is situated over survey No.101 or survey No.99, the Advocate Commissioner does not possess the expertise to demarcate the land and identify as to in which survey number the *bode* canal is situated.

Had it been a simple dispute as to whether a *bode* canal is in existence or

not, it would have been possible for appointing an Advocate Commissioner to find out whether such *bode* canal is in existence or not, but as the identity of the land over which the *bode* canal is situated itself is in dispute, it is not possible for the Advocate Commissioner to ascertain such fact. In this view of the matter, I do not find any illegality or jurisdictional error in the order of the lower Court.

Accordingly, the Civil Revision Petition is dismissed.

As a sequel to dismissal of the civil revision petition, C.R.P.M.P. No.4890 of 2015 filed by the petitioners for interim relief shall stand dismissed as infructuous.

(C.V.NAGARJUNA REDDY, J)

11th September, 2015

GHN