

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Civil Revision Petition No.4404 of 2014

-
Dated 05.02.2015

Between:

Kandadi Satti Reddy

...Petitioner

and

P.L.Srinivas Rao and another

...Respondents

Counsel for the Petitioner: None Appeared

Counsel for the respondent: None Appeared

The Court made the following:

Order:

This Civil Revision Petition arises out of Order, dated 24.09.2014, in IA.No.796 of 2014 in OS.No.202 of 2012, on the file of the Court of the learned Additional Junior Civil Judge, Ranga Reddy District at Malkajgiri.

At the hearing, there is no representation for the petitioner. I have perused the record.

The petitioner has filed the above-mentioned suit for perpetual injunction restraining the

respondents from interfering with his possession and enjoyment of the suit schedule land admeasuring Ac.0-16 guntas in Survey No.358 situated at Nagaram Village, Keesara Mandal, Ranga Reddy District. Pending the suit, the petitioner has filed IA.No.796 of 2014, under Order XXVI Rule 9 of the Code of Civil Procedure, 1908 (CPC), for appointment of an Advocate-Commissioner. The petitioner has pleaded that while the suit schedule land is situated in Survey No.358, the respondents are claiming the plots bearing Nos.4 part and 5 part in Survey Nos.363 and 364 of Nagaram Village; that the vendors of the respondents have converted the excess land owned by them into residential plots; and that taking advantage of execution of register sale deeds by those vendors in their favour, the respondents are claiming the plots in Survey No.358 and; that in order to know whether the plots claimed by the respondents are in Survey No.363 or 364 of Nagaram Village, appointment of an Advocate-Commissioner for survey and demarcation of the suit schedule land was necessary. The lower Court has dismissed the said application. Feeling aggrieved thereby, the plaintiff filed this Civil

Revision Petition.

Ordinarily, an Advocate-Commissioner is appointed under Order XXVI Rule 9 CPC for elucidating the matter in dispute on ground. The question whether the plots claimed by the respondents are in Survey No.363 or 364 of Nagaram Village or not needs to be addressed by the respondents themselves. It will suffice for the petitioner to prove that the suit schedule land is situated in Survey No.358. As rightly observed by the lower Court, it is not the pleaded case of the respondents that their plots are situated in Survey No.358. Having filed the suit, the plaintiff needs to establish that he is in possession of the suit schedule land and that the respondents have been unjustly trying to interfere with his possession. Therefore, the plaintiff has to prove his case by adducing necessary oral and documentary evidence and he cannot rely upon the Advocate-Commissioner to gather evidence. When there is no dispute regarding the identity of the suit schedule land or its boundaries, the question of its identification by way of survey and demarcation by the Advocate-Commissioner would not arise. The lower Court has rightly dismissed the application

filed by the petitioner. Hence, I do not find any reason to interfere with the impugned order of the lower Court.

The Civil Revision Petition is, therefore, dismissed.

As a sequel to dismissal of the Civil Revision Petition, CRPMP.No.6022 of 2014, filed by the petitioner for interim relief, is dismissed as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 5th February, 2015
LUR