

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.2862 of 2011

ORDER:

Heard Sri S.V.Muni Reddy, learned counsel for the petitioners and Sri T.C.Krishnan, learned counsel for the respondents.

2. This Revision Petition is filed challenging the order dt.22-07-2011 in I.A.No.772 of 2010 in O.S.No.803 of 2007 of the Principal Junior Civil Judge, Chittoor.
3. Petitioners herein are plaintiffs in the suit. They filed the suit for perpetual injunction restraining the respondents from interfering with their peaceful possession and enjoyment of the suit schedule property. An Advocate Commissioner had been appointed to note down existing physical features such as existing house, electricity connection, mango saplings, jowar crop, trenches dug for the construction of bath rooms etc. in I.A.No.838 of 2007. He visited the property and filed his report.
4. Thereafter the respondents filed I.A.No.772 of 2010 contending that the actual dispute between themselves and the petitioners is only in respect of an extent of Ac.0.1 ½ cts within the boundaries of East: Road, West: House of the respondents, North: House of Papamma and South: House of plaintiffs and that within this small extent, certain structures exist belonging to them. They alleged that the petitioners gave wrong extent of Ac.0.60 cts most of which is undisputed and it is necessary to measure the disputed property with the assistance of the Mandal Surveyor.
5. The petitioners denied the said contention. They pointed out that earlier Advocate Commissioner had been appointed and

she had filed her report and again an Advocate Commissioner to measure the suit schedule property cannot be appointed. They also contended that it amounts to collection of evidence.

6. By order dt.22-07-2011, the Court below allowed the said application. It held that in order to note down the physical features existing on the ground and to avoid much of the oral evidence, it is a fit case to appoint Advocate Commissioner to note down the physical features for the purpose mentioned in the petition.
7. Challenging the same, this Revision Petition is filed.
8. Though the learned counsel for the petitioners contended that appointment of an Advocate Commissioner again is not warranted, I am of the considered opinion, since the Advocate Commissioner appointed earlier has not measured the disputed area and has only noted down the physical features existing at the time of her visit, in order to assist the Court to come to a proper conclusion in the suit, it is necessary to appoint an Advocate Commissioner to measure the suit schedule property with the assistance of Mandal Surveyor. It is made clear that it is not necessary to note down the other physical features in the property since that job had already been down by the earlier Advocate Commissioner.
9. The impugned Order passed by the Court below is modified to the above extent and accordingly the Civil Revision Petition is allowed in part. No costs.
10. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 28-09-2015

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