

THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY THIS THE SIXTH DAY OF MARCH
TWO THOUSAND AND FIFTEEN

PRESENT

**THE HON'BLE MR JUSTICE A.RAMALINGESWARA
RAO**

-
CIVIL REVISION PETITION No.2582 of 2014

Between:
Bollu Manmadha Rao

..... PETITIONER

AND
Boda Kotaiah and 15 others

.....RESPONDENTS

The Court made the following:

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA

RAO

CIVIL REVISION PETITION No.2582 of 2014

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ORDER:

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This civil revision petition is filed against the order in I.A.No.476 of 2013 in O.S.No.21 of 2013 on the file of the II Additional District Judge, Nalgonda at Suryapet.

The plaintiff in O.S.No.21 of 2013 is the petitioner herein. He filed I.A.No.476 of 2013 for appointment of an Advocate Commissioner to ascertain the physical features of the suit schedule property and the structures thereon raised by the respondents/defendants. He filed the suit for recovery of possession in respect of Ac.0.34 gts in Sy.No.334, situated at Thammarabandapalem village, Kodada Mandal, Nalgonda District within the specified boundaries. In respect of his application, the petitioner stated that the defendants encroached his property as if it is in Sy.Nos.335 and 349.

The respondents/defendants filed written statement specifically stating that they purchased the property situated in Sy.Nos.335/A/3, 348 and 336/AA/1 which impliedly shows that they have no concern with the land in Sy.No.334 claimed by the plaintiff. Thus, there appears to be a boundary dispute between the claim made by the plaintiff and the defendants.

In a suit for recovery of possession, it is necessary to fix boundaries as well as note down the physical features of the land in order to ascertain the extent of encroachment. The trial Court dismissed the application on the ground that the petitioner has not mentioned the reasons for seeking appointment of Commissioner for local inspection.

From the averments made by the plaintiff in the plaint and that of the defendants in the written statement, it is clear that there is no overlapping of the claims of the respective parties, as each party is

claiming the land in separate survey numbers. The report of the Commissioner is not final and conclusive. In the circumstances of the above case, no prejudice would be caused to the defendants by appointment of an Advocate Commissioner. Further, the application is filed immediately after framing of the issues and before commencement of trial.

In the circumstances, the impugned order in I.A.No.476 of 2013 in O.S.No.21 of 2013, dated 10.06.2014 is set aside and the application of the petitioner in I.A.No.476 of 2013 is allowed. The trial Court shall appoint an Advocate Commissioner for the relief sought for by the petitioner.

The Civil Revision Petition is allowed accordingly. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in consequence.

A.RAMALINGESWARA RAO,J

Date: 06.03.2015
Dsr