

HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO

CIVIL REVISION PETITION No. 4437 of 2014

DATED 21st December, 2015

BETWEEN

Sangeetham Siddakshamma and anr

...Petitioners

And

Kondamarri Ramamoorthy and ors

...Respondents.

HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO

CIVIL REVISION PETITION No. 4437 of 2014

ORDER:

The petitioners herein are the plaintiffs in O.S.No.64 of 2009 on the file of the learned Senior Civil Judge, Piler, Chittoor District. They filed the aforesaid suit for permanent injunction restraining the respondents/defendants from interfering with their peaceful possession and enjoyment of the three items of landed property situated in Chittecherla village of Chinnagottigallu taluk, Chittoor District.

The evidence on behalf of the plaintiffs was completed in the suit. At that that stage, the petitioners/plaintiffs filed I.A.No.313 of 2014 seeking appointment of Commissioner to inspect the suit property and to note down its physical features. The respondents/defendants filed a counter affidavit opposing

the said application. After hearing the parties on either side, the Court below dismissed the said application through the order under revision dated 8.10.2014.

In the affidavit filed in support of the aforesaid petition, the petitioners herein stated that the Court below granted an interim injunction in I.A.No.490 of 2009 and the said order was served on the respondents/defendants, who disobeyed the said injunction orders on 7.09.2009 at about 7.00 PM by pulling the stone pillars which are planted by the petitioners/plaintiffs on the Northern side of Item No.1 and also on the North and Southern side of plaint schedule Item No.3. Subsequently the petitioners/plaintiffs filed I.A.No.520 of 2009 in I.A.No.490 of 2009 complaining disobedience of the injunction order. It was further alleged that the respondents/defendants trespassed into the plaint schedule property, pursuant to which, a criminal case was also filed and the same is pending. In those circumstances, the petitioners/plaintiffs filed the impugned application seeking appointment of Commissioner to note down the physical features of the plaint schedule property.

An elaborate counter affidavit was filed by the respondents/defendants denying the averments made in the affidavit filed in support of the impugned application. It was stated in the counter affidavit that the injunction order granted in favour of the petitioners/plaintiffs was vacated by the Court below on 15.09.2009 itself and that there are no injunction orders in favour of the petitioners/plaintiffs as on the date of filing the impugned application. In those circumstances, the Court below dismissed the application on the ground that there

is no dispute with regard to the identity of the suit property.

In view of the nature of relief sought for in the suit and the averments made in the affidavit filed in support of the impugned application and also the counter affidavit filed denying the averments made in the accompanying affidavit, the Court below reached a correct conclusion by exercising its discretion powers and in view thereof, this Court finds no valid and substantial reason to interfere with the same.

The Civil Revision Petition is accordingly dismissed. Miscellaneous petitions pending consideration if any in the Civil Revision petition shall stand closed in consequence. No order as to costs.

JUSTICE A. RAMALINGESWARA RAO

DATED 21st December, 2015.

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