

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 2649 of 2015

ORDER:

Assailing the order dated 08.06.2015 passed in I.A.No.59 of 2015 in O.S.No.318 of 2004 on the file of the II Additional Junior Civil Judge, Karimnagar, the present Civil Revision Petition is filed under Article 227 of the Constitution of India.

For the sake of convenience, the parties hereinafter referred to as arrayed before the trial Court.

The facts in issue are as under:

The petitioner herein filed a suit seeking relief of permanent injunction. The averments in the plaint are to the effect that the plaintiff is the owner and possessor of the house bearing No. 3-1-702 along with open land measuring 362 square yards comprised in Sy.No.1305/B situated at Vavilalapally, Karimnagar Town. The plaintiff is said to have purchased the said land from one Dasari Janardhan Reddy through a registered sale deed No.4403/1997 dated 23.07.1997. The vendor of the plaintiff has obtained consent decree against Ummenthula Raji Reddy and others in O.S.No.230 of 1981 on the file of the District Munisif, Karimnagar on 11.03.1981 and mutation was also effected in the revenue records. Defendant No.3 also gave the door number to the shed-cum-house of the plaintiff in the year 1998 and since then the plaintiff has been paying the house tax also. Defendant Nos.1 and 2 who are strangers and with a view to grab the property, influenced the political leaders to see that the M.R.O., Karimnagar issued a report to defendant No.3 and also a notice of

eviction, on the ground that the house is located in Sy.No.1300 and not in Sy.No.1305/B. A reply to the said eviction notice was given by the plaintiff. In view of the dispute which has been raised and as the defendants are trying to interfere with the possession of the property the above suit came to be filed. Pending the suit i.e. 11 years after filing of the suit, the petitioner herein filed a petition to re-open the main case for the purpose of appointment of advocate commissioner to fix the boundaries in respect of land in Sy.Nos.1300 and 1305/B.

After considering the rival arguments, the II Additional Junior Civil Judge, Karimnagar, dismissed the said I.A. Challenging the same the present revision is filed.

Learned counsel for the petitioner mainly submits that since there is a dispute with regard to the location of the property it would be appropriate to appoint an advocate-commissioner to demarcate the boundaries as the evidence adduced by both the parties may not be sufficient to prove the location of the property. He places reliance on the following judgments of this Court.

1. Velaga Narayana and others v. Bommakanti Srinivas and others [\[1\]](#)
2. Nambada Varaha Narasimhulu v. Karanam Dalamma and others [\[2\]](#)
3. Donadulu Uma Devi v. Girika Katamaiah @ Basaiah and others [\[3\]](#)
4. T.Venkat Ramdev v. G.Arjun Reddy and others [\[4\]](#)

Learned counsel for the respondents opposed the revision contending that the survey was already done pursuant to a

dispute raised by the respondents herein and thereafter the said survey report was marked through DW.3. No dispute was raised at the time of making of the said document through D.W.3 and the petition came to be filed after completion of the arguments.

A perusal of the material placed before the Court would show that the entire trial in the case is over and the arguments of either side were also heard. The record reveals that the suit was posted for reply arguments of the plaintiff. At that stage, the present application came to be filed. Apart from that the record reveals that earlier the Mandal Surveyor conducted a survey with regard to the location of the house of the petitioner and gave a report stating that the petitioner has constructed a compound wall in Sy.No.1300. The said report dated 906.02.2003 was marked through DW.3 who is the Town Planning Surveyor.

There is no dispute with regard to the proposition of law in the judgments referred to above. It is to be noted that in all the cases referred to above the trial was not completed. The situation on hand is totally different. In the instant case not only the trial is complete but the counsel of either side also advanced their arguments and the case was being posted for reply arguments of the plaintiff. Apart from that the record also discloses about the survey being conducted by the Mandal Surveyor with regard to the very same property and the report was marked through DW.3. No effort was made at the earliest point of time for appointment of an advocate-commissioner. No reasons are forthcoming explaining the delay in filing the said application. Having regard to the circumstances stated above, I see no reasons to interfere with the impugned order.

Accordingly, the Civil Revision Petition is dismissed.
There shall be no order as to costs. Miscellaneous Petition, if
any, pending in this Civil Revision Petition, shall stand closed.

**JUSTICE C. PRAVEEN
KUMAR**

04.09.2015
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- [\[1\]](#) 2014 (3) ALD 605
 - [\[2\]](#) 2014 (4) ALD 610
 - [\[3\]](#) 2013 (2) ALD 86
 - [\[4\]](#) 2013 (3) ALT 236