

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

Civil Revision Petition No.2867 of 2015

Between:

Chitti Thoudu

.... Petitioner

And

Yamma Venkata Narasinga Rao

... Respondent

DATE OF JUDGMENT PRONOUNCED: **28.07.2015**

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

1. Whether Reporters of Local Newspapers
may be allowed to see the judgments? Yes / No
2. Whether the copies of judgment may be
marked to Law Reporters / Journals? Yes / No
3. Whether Their Lordship wish to
see the fair copy of the Judgment? Yes / No

HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

Civil Revision Petition No.2867 of 2015

ORDER:

In this petition filed under Article 227 of the Constitution of India, petitioner/defendant assails the order dated 22.04.2015 in I.A.No.97 of 2015 in O.S.No.554 of 2008 whereby and whereunder the learned Principal Junior Civil Judge, Srikakulam dismissed the petition filed by the present petitioner seeking appointment of Advocate Commissioner to find out the exact

location of the land covered by Sy.No.27/11 as shown in the plaint schedule.

2) Learned Judge dismissed the petition mainly on two grounds; firstly that as per contention of defendant he never saw the plaintiff or his lands and the lands under his cultivation are different from the plaint schedule lands and secondly, earlier the petitioner/defendant filed similar application for appointment of Commissioner and it was dismissed by the trial Court and also by the High Court in C.R.P.No.3570 of 2013 and the said order would operate as *res judicata* for the relief claimed in the second petition.

Hence the instant CRP.

3) Heard both sides.

4) Upon hearing both sides, it must be held that there are no merits in the petition. The learned Judge of this Court in the earlier round of litigation made it clear that when it was the claim of the defendant that his lands and the suit lands were different, the question of localization of suit schedule lands does not arise. Now, the petitioner in the second round of litigation slightly twisted his relief and sought that on the previous occasion he sought for localization of the suit schedule property with reference to its boundaries and now he seeks for location of land covered by Sy.No.27/11 as shown in plaint schedule property. In substance, both prayers are identical. As already observed by this Court earlier, in a suit for injunction it is for

plaintiff to plead and prove by cogent evidence about his possession and enjoyment of plaint schedule property. Therefore, there is no point in appointing Commissioner.

5) In the result, this Civil Revision Petition is dismissed. No costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 28.07.2015
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